repeal of excise tax on commercial bodies, tires, etc.; to the Committee on Ways and Means.

896. Also, petition of the National Lumber Manufacturers' Association, Washington, D. C., in re Mellon tax plan; Walter L. Dean, Kohl Building, San Francisco, Calif., protesting against passage of the soldiers' bonus bill and favoring the proposed Mellon tax plan; and Bingley Photo-Engraving Co., San Francisco, Calif., in favor of tax reductions; to the Committee on Ways and Means.

897. Also, petition of O. B. Parkinson, Stockton, Calif., favoring Secretary Mellon's tax-reduction plan; to the Committee on Ways and Means.

898. Also, petition of American Bottlers of Carbonated Beverages, Washington, D. C., in re relief from tax on sirup and carbonic gas; Parrott & Co., San Francisco, Calif, indorsing Mellon tax plan; and Retail Merchants' Association, San Francisco, Calif., resolution favoring Mellon tax-reduction plan; to the Committee on Ways and Means.

899. Also, petition of Omaha Chamber of Commerce, Omaha, Nebr., in re increase in air mail service appropriation; to the Committee on Appropriations.

900. Also, petition of E. H. Liscum Camp, No. 7, United Spanish War Veterans, Oakland, Calif., indorsing the Bursum bill; to the Committee on Pensions.

901. Also, petition of Mrs. W. L. Eddy, secretary the Nevada County Farm Bureau, Rough and Ready, Calif., in favor of Ford's Muscle Shoals plan; to the Committee on Military Affairs.

902. Also, petition of Mr. John A. O'Connell, secretary San Francisco Labor Council, San Francisco, Calif., resolution urging support of Senate bill 1220 and House bill 705; to the Committee on the Civil Service.

903. Also, petition of National Consumers' League, approving the Dyer antilynching bill; to the Committee on the Judiciary.

904. Also, petition of C. Richard Knapp, Grass Valley, Calif., urging support of the Kelly-Stephens bill (H. R. 11) and Merritt bill (H. R. 6) relative to price fixing; to the Committee on Interstate and Foreign Commerce.

905. Also, petition of San Joaquin Grocery Co., Fresno, Calif., in re amendment to section 8 of food and drugs act, and California Metal & Mineral Producers' Association, San Francisco, Calif., opposing changes in provisions of transportation act; to the Committee on Interstate and Foreign Commerce.

906. By Mr. SITES: Petition granting an increase of pension to Mary A. Deihl; to the Committee on Pensions.

907. By Mr. TAGUE: Petition of the Mazzini Club (Inc.) of Boston, Mass., opposing the enactment of the so-called Johnson immigration bill; to the Committee on Immigration and Naturalization.

SENATE.

THURSDAY, *February 7, 1924.*

The Chaplain, Rev. J. J. Muir, D. D., offered the following prayer:

Our Father, we love to call Thee by this endearing name. We recognize closer relationship with Thee, and a better understanding of Thy relationship with us appeals most strongly to our hearts. Thou art with us in trouble, Thou art with us when the light shines most brightly, and the shadows can not keep Thee from us.

We beseech of Thee to be with us in this day and its manifold duties. May a consciousness of life made sublime be to us more and more an incentive to live according to Thy good pleasure, to honor Thee continually, and to seek the very highest interests of the land we love. We ask in Jesus Christ's name. Amen.

The reading clerk proceeded to read the Journal of the proceedings of Monday last, when, on request of Mr. CURTIS and by unanimous consent, the further reading was dispensed with and the Journal was approved.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. Chaffee, one of its clerks, announced that the House had passed without amendment the following bills:

S. 152. An act to authorize the county of Multnomah, Oreg., to construct a bridge and approaches thereto across the Willamette River in the city of Portland, Oreg., to replace the present Burnside Street Bridge in said city of Portland; and also to authorize said county of Multnomah to construct a bridge and approaches thereto across the Willamette River in said city of Portland in the vicinity of Ross Island;

S. 384. An act to authorize the building of a bridge across Waccamaw River in South Carolina near the North Carolina State line;

S. 602. An act to extend the time for the construction of a bridge across the Arkansas River between the cities of Little Rock and Argenta, Ark.;

S. 604. An act to authorize the construction, maintenance, and operation of a bridge across the St. Francis River near St. Francis, Ark.;

S. 643. An act to extend the time for the construction of a bridge across the Pamunkey River in Virginia;

S. 733. An act granting the consent of Congress to the construction of a bridge over the Hudson River at Poughkeepsie, N. Y.;

S. 1170. An act to authorize the Highway Commission of the State of Montana to construct and maintain a bridge across the Yellowstone River at or near the city of Glendive, Mont.;

S. 1374. An act to authorize the Norfolk & Western Railway Co. to construct a bridge across the Tug Fork of the Big Sandy River at or near a point about 1½ miles west of Williamson, Mingo County, W. Va., and near the mouth of Turkey Creek, Pike County, Ky.; and

S. 1634. An act to authorize the building of a bridge across the Lumber River in South Carolina between Marion and Horry Counties.

The message also announced that the House had passed the bill (S. 1539) extending the time for the construction of a bridge across Fox River by the city of Aurora, Ill., and granting the consent of Congress to the removal of an existing dam and to its replacement with a new structure, with amendments, in which it requested the concurrence of the Senate.

The message further announced that the House had passed the following bill and joint resolution, each with an amendment, in which it requested the concurrence of the Senate:

S. 1540. A bill granting the consent of Congress to the city of Aurora, Kane County, Ill., a municipal corporation, to construct, maintain, and operate certain bridges across Fox River; and

S. J. Res. 68. A joint resolution authorizing the erection on public grounds in the city of Washington, D. C., of a memorial to the Navy and marine services, to be known as Navy and marine memorial dedicated to Americans lost at sea.

The message further announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H. R. 486. An act to extend the time for the completion of the municipal bridge approaches, and extensions or additions thereto, by the city of St. Louis, within the States of Illinois and Missouri;

H. R. 584. An act to authorize the county of Multnomah, Oreg., to construct, maintain, and operate a bridge and approaches thereto across the Willamette River, in the city of Portland, Oreg., in the vicinity of the present site of Sellwood Ferry;

H. R. 2818. An act to grant the consent of Congress to construct, maintain, and operate a dam and spillway across the Waccamaw River, in North Carolina;

H. R. 3444. An act for the relief of certain nations or tribes of Indians in Montana, Idaho, and Washington;

H. R. 3845. An act to authorize the construction of a bridge across the Little Calumet River at Riverdale, Ill.;

H. R. 3852. An act providing for the final disposition of the affairs of the Eastern Band of Cherokee Indians of North Carolina;

H. R. 4120. An act granting the consent of Congress to the Greater Wenatchee Irrigation District to construct, maintain, and operate a bridge across the Columbia River;

H. R. 4182. An act authorizing the city of Ludington, Mason County, Mich., to construct a bridge across an arm of Pere Marquette Lake;

H. R. 4187. An act to legalize a bridge across the St. Louis River in Carlton County, State of Minnesota;

H. R. 4366. An act granting the consent of Congress to the Great Northern Railway Co., a corporation, to maintain and operate or reconstruct, maintain, and operate a bridge across the Mississippi River;

H. R. 4439. An act to amend section 71 of the Judicial Code as amended;

H. R. 4442. An act to extend the insurance and collect-on-delivery service to third-class mail, and for other purposes;

H. R. 4457. An act conferring jurisdiction upon the Court of Claims to hear, examine, adjudicate, and enter judgment in any claims which the Cherokee Indians may have against the United States, and for other purposes;

H. R. 4498. An act to authorize the State of Illinois to construct, maintain, and operate a bridge, and approaches thereto, across the Fox River in the county of Kendall and State of Illinois;

H. R. 4499. An act granting the consent of Congress to the State of Illinois to construct, maintain, and operate a bridge and approaches thereto, across the Rock River, in the county of Winnebago, State of Illinois, in section 24, township 46 north, range 1 east, of the third principal meridian;

H. R. 4577. An act providing for the examination and survey of Mill Cut and Clubfoot Creek, N. C.;

H. R. 4807. An act granting the consent of Congress to the State Highway Commission of Louisiana to construct, maintain, and operate a bridge across West Pearl River in the State of Louisiana;

H. R. 4808. An act granting the consent of Congress to the construction, maintenance, and operation of a bridge across the Pearl River between St. Tammany Parish in Louisiana and Hancock County in Mississippi;

H. R. 4817. An act granting the consent of Congress to the State of Illinois and the State of Iowa, or either of them, to construct a bridge across the Mississippi River, connecting the county of Whiteside, Ill., and the county of Clinton, Iowa;

H. R. 4984. An act to authorize the Clay County bridge district, in the State of Arkansas, to construct a bridge over Current River;

H. R. 5273. An act granting the consent of Congress to the Chicago, Milwaukee & St. Paul Railway Co. to construct a bridge over the Mississippi River between St. Paul and Minneapolis, Minn.;

H. R. 5337. An act granting the consent of Congress to construct a bridge over the St. Croix River between Vanceboro, Me., and St. Croix, New Brunswick;

H. R. 5348. An act granting the consent of Congress for the construction of a bridge across the St. John River between Fort Kent, Me., and Clairs, Province of New Brunswick, Canada;

H. R. 5557. An act to authorize the settlement of the indebtedness of the Republic of Finland to the United States of America; and

H. R. 5624. An act to authorize the construction of a bridge across the Ohio River to connect the city of Benwood, W. Va., and the city of Bellaire, Ohio.

The message further communicated to the Senate the resolution (H. Res. 171) adopted by the House of Representatives as a tribute to the memory of Hon. Woodrow Wilson, a former President of the United States, and appointing a committee to join such committee as may be appointed on the part of the Senate to consider and report by what further token of respect and affection it may be proper for the Congress of the United States to express the deep sensibility of the Nation.

The message also announced that in accordance with the resolution just above mentioned, the Speaker had appointed as members of the committee on the part of the House Mr. LONGWORTH, Mr. COOPER of Wisconsin, Mr. BUTLER, Mr. GREENE of Massachusetts, Mr. HAUGEN, Mr. KAHN, Mr. DAVIS of Minnesota, Mr. MADDEN, Mr. BURTON, Mr. GREEN of Iowa, Mr. VARE, Mr. GARRETT of Tennessee, Mr. POU, Mr. BELL, Mr. SABATH, Mr. TAYLOR of Colorado, Mr. BYRNES of South Carolina, Mr. LINTHICUM, Mr. BARKLEY, Mr. CAREW, Mr. MONTAGUE, Mr. WINGO, Mr. EAGAN, Mr. FISHER, Mr. HAWES, and Mr. GERAN.

ENROLLED BILL AND JOINT RESOLUTION SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bill and joint resolution, and they were subsequently signed by the President pro tempore:

S. 794. An act to equip the United States penitentiary, Leavenworth, Kans., for the manufacture of supplies for the use of the Government, for the compensation of prisoners for their labor, and for other purposes; and

S. J. Res. 54. Joint resolution directing the President to institute and prosecute suits to cancel certain leases of oil lands and incidental contracts, and for other purposes.

MISSISSIPPI RIVER BRIDGE AT ST. LOUIS.

Mr. SPENCER. Mr. President, there just came over from the House a bridge bill (H. R. 486) to extend the time for the completion of the municipal bridge approaches, and extensions or additons thereto, by the city of St. Louis. The bill is the same as the Senate bill that is first on the calendar of the Senate. It was reported favorably for passage, but some difference of opinion arose between those interested in Illinois and those interested in Missouri. That difference of opinion has now been adjusted by an amendment which the House added to the bill. The emergency of time is my excuse for asking unanimous consent to substitute the House bill for the Senate bill, which is Senate bill 987, first on the calendar, and for the immediate consideration of the House bill.

The bill (H. R. 486) to extend the time for the completion of the municipal bridge approaches, and extensions or additions thereto, by the city of St. Louis, within the States of Illinois and Missouri, was read twice by its title.

The PRESIDENT pro tempore. The Senator from Missouri asks unanimous consent for the immediate consideration of House bill 486.

Mr. ROBINSON. May I ask if there was a unanimous report from the Senate committee?

Mr. SPENCER. There was.

Mr. ROBINSON. There is no objection to the present consideration of the bill.

Mr. SPENCER. I ask that the House bill be put upon its passage.

The PRESIDENT pro tempore. Is there objection to the immediate consideration of the House bill?

There being no objection, the bill was considered as in Committee of Whole and was read as follows:

Be it enacted, etc., That the time for the construction and completion of the municipal bridge approaches, and also extensions or additions thereto, which said construction and completion was authorized by an act entitled, "An act to authorize the city of St. Louis, a corporation organized under the laws of the State of Missouri, to construct a bridge across the Mississippi River," approved June 25, 1906, be, and the same is hereby, extended for the period of three years from February 11, 1924.

SEC. 2. That for the purpose of carrying into effect the objects of this act, the city of St. Louis may receive, purchase, and also acquire by lawful appropriation and condemnation in the States of Illinois and Missouri, upon making proper compensation therefor, to be ascertained according to the laws of the State within which the same is located, real and personal property and rights of property, and in order to facilitate and support interstate commerce may make any and every use of the same necessary and proper for the acquirement, construction, maintenance, and operation of said municipal bridge approaches, and extensions or additions thereto, consistent with the laws of the United States.

SEC. 3. That the right to alter, amend, or repeal this act is hereby expressly reserved: *Provided*, That the city of St. Louis may construct approaches, additions, or extensions, in addition to those now existing, connecting said bridge with any railroad or highway within or through the city of East St. Louis, Ill.; but before constructing such approaches, additions, or extensions the location thereof shall first have been approved by, and a certificate of public convenience and necessity therefor shall first have been obtained from, the Interstate Commerce Commission. Full jurisdiction and authority to consider and determine such questions is hereby conferred upon the Interstate Commerce Commission, in the same manner and to the same extent as in the case of other proceedings for certificates of public convenience and necessity under paragraphs (18), (19), and (20) of section 1 of the interstate commerce act.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

On motion of Mr. SPENCER, the bill (S. 987) to extend the time for the completion of the municipal bridge approaches, and extensions or additions thereto, by the city of St. Louis within the States of Illinois and Missouri, was indefinitely postponed.

FOX RIVER BRIDGE, ILLINOIS.

Mr. McKINLEY. There are two bills the passage of which is asked for by the city of Aurora, Ill., which are in exactly the same condition as the bill just passed. The two bills were passed by the Senate. Similar bills have been passed by the House with an amendment which is satisfactory to the city of Aurora, and they have just been received from the House. I refer to House bill 4498 and House bill 4499. I ask unanimous consent for the present consideration of the House bills.

Mr. ROBINSON. I suggest to the Senator from Illinois that in order that the Secretary may keep the record without difficulty, he ask for the separate consideration of the bills and have them considered one at a time.

Mr. McKINLEY. That is what I propose to do. I ask for the immediate consideration of House bill 4498.

The bill (H. R. 4498) to authorize the State of Illinois to construct, maintain, and operate a bridge and approaches thereto across the Fox River, in the county of Kendall and State of Illinois, was read twice by its title.

The PRESIDENT pro tempore. The Senator from Illinois asks unanimous consent for the immediate consideration of the bill. Is there objection?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which was read, as follows:

Be it enacted, etc., That the State of Illinois be, and is hereby, authorized to construct, maintain, and operate a bridge and approaches thereto across the Fox River at a point suitable to the interests of navigation, in the county of Kendall and State of Illinois, on the spur of State Road No. 18, connecting the villages of Yorkville and Bristol, in said county of Kendall, to replace the bridge now connecting the said villages of Yorkville and Bristol, in accordance with the provisions of the act entitled "An act to regulate the construction of bridges over navigable waters," approved March 23, 1906.

SEC. 2. The right to alter, amend, or repeal this act is hereby expressly reserved.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ROCK RIVER BRIDGE, ILLINOIS.

Mr. McKINLEY. I now ask unanimous consent that House bill 4499 be laid before the Senate and put on its passage.

The bill (H. R. 4499) granting the consent of Congress to the State of Illinois to construct, maintain, and operate a bridge and approaches thereto across the Rock River, in the county of Winnebago, State of Illinois, in section 24, township 46 north, range 1 east of the third principal meridian, was read twice by its title.

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which was read as follows:

Be it enacted, etc., That the consent of Congress is hereby granted to the State of Illinois to construct, maintain, and operate a bridge and approaches thereto across the Rock River, at a point suitable to the interests of navigation, in the county of Winnebago, State of Illinois, in section 24, township 46 north, range 1 east, of the third principal meridian, in accordance with the provisions of the act entitled "An act to regulate the construction of bridges over navigable waters," approved March 23, 1906.

SEC. 2. That the right to alter, amend, or repeal this act is hereby expressly reserved.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

OIL LEASE DISCLOSURES.

Mr. WALSH of Montana. Mr. President, I have here a copy of the Philadelphia North American of Friday, February 1, 1924, in which appears an editorial containing some pertinent and sensible observations concerning the oil scandal, which I ask may be read at the desk.

The PRESIDENT pro tempore. Is there objection? The Chair hears none, and the Secretary will read as requested.

The reading clerk read as follows:

THE PRESIDENT MUST DO MORE.

Two questions have been raised in the public mind by the revelations in the oil-lease case—first, as to the punishment of Albert B. Fall and his accomplices in delivering the Navy's oil reserves to private exploitation; second, as to the effects of the disclosures upon the political fortunes of President Coolidge, who, until this scandal broke, seemed fairly sure of being the next Republican candidate for the Presidency.

Devastating retribution has already overtaken Fall. In the public mind he stands convicted of gross falsehood, of corruption, of betrayal of friendship and his country's welfare; broken in health and stripped of honor, he is an object of scorn. And it may be assumed that the indignation aroused by his part in the sordid transactions will ultimately force out of the public service Attorney General Daugherty and Secretary of the Navy Denby, who helped to put through the deals he corruptly devised.

Partisan antagonists of President Coolidge, who confidently assert that the disclosures assume his elimination as a candidate, take too much for granted. On the other hand, those Republicans who hopefully insist that the scandal will not materially affect his chances for nomination and election argue from desire rather than from reason.

The truth is that Calvin Coolidge stands at the crossroads in his official and political career. If he promptly takes the right course, and follows it courageously and undeviatingly, he will not only pass out of the zone of danger but will reach new heights of prestige. But if he falters, if he evades or compromises or delays too long, he will irretrievably impair his standing with the American people.

They have attributed to him a character distinguished by devotion to high ideals, and even political opponents have recognized his adherence to exacting standards of personal integrity. Public confidence in him has been increased by observation of his habits of moderation, thrift, and prudence, inherited from a sturdy New England ancestry—traits that were strikingly dramatized for his countrymen by his taking the oath of office by the light of a kerosene lamp in the quietude of a remote farmhouse. Against such a background his character has seemed to the country to possess something of the ruggedness and solidity of the granite hills of his native State. And it goes without saying that only this high repute could have saved him from instant elimination as a candidate by recent events. No reader will doubt this if he tries to think of any other leader, in either party, who could retain public confidence under existing circumstances.

But to exercise command over such an emergency as that which now confronts President Coolidge requires more than personal integrity. A Chief Executive in his position can gain safety only if he gives convincing proof that he possesses the moral force and political courage that will enable him to vindicate public rights and public honor against friend or foe. It would easily be possible for Mr. Coolidge in this respect to fall so far short of the demands of the situation as to make valueless the great asset of his reputation for inflexible personal honesty.

The revelations thus far made have created an insistent public demand, emphatically expressed in the Senate, for the retirement of Attorney General Daugherty and Secretary Denby, without whose connivance Fall could not have accomplished the diversion of the naval oil reserves. President Coolidge alone has power to remove them, and every day that he delays its exercise must reduce his prestige with the public.

When Mr. Coolidge was suddenly called to the Presidency by reason of the death of Mr. Harding, he correctly interpreted the wish of the entire Nation by announcing that he would continue the policies of his predecessor and for the time being would retain the Cabinet as it had been constituted. Even those who had regarded Daugherty as unfit for the post of head of the Department of Justice conceded that the President might well avoid an unbecoming haste in displacing him. But by no intelligible course of reasoning can it be contended that the plundering of the Nation's resources through official corruption was a Harding policy which the public desired to be followed or condoned.

Thus far President Coolidge has made one important move, in the appointment of two lawyers of national prominence—one a Republican, the other a former Attorney General under a Democratic administration—to conduct civil and criminal suits. Furthermore, he has expressed in general but vigorous terms his purpose to perform his full duty. "If there is any guilt," he declares, "it will be punished; if there is any civil liability it will be enforced; if there is any fraud it will be revealed, and if there are contracts which are illegal they will be canceled. Every law will be enforced, and every right of the people and the Government will be protected."

It is unfortunate, however, that President Coolidge's action was not marked by conspicuous promptitude. His reassuring statement, in fact, was not issued until midnight last Saturday, several hours after the Senate committee had unanimously decided to present a resolution embodying demands for the procedure followed. Senators openly charged, indeed, that the President, having been secretly apprised of the committee's purposes, undertook to forestall them and break the force of the resolution.

Moreover, Mr. Coolidge's statement was marred by the gratuitous and essentially misleading observation that "men are involved who belong to both political parties." It is true that E. L. Doheny, who loaned Fall $100,000 without security shortly before obtaining the lease of the Navy's oil reserves in California, is nominally a Democrat. But every official besmeared is a Republican. To say that the oleaginous scandal is a bipartisan affair because of the connection with it of Doheny, who has contributed to the campaign funds of both parties, is a paltry bit of political misrepresentation. As a matter of fact, Harry F. Sinclair, who likewise contributes to both parties, and who loaned Fall $25,000 after getting a lease of the Teapot Dome oil deposits, is an outstanding Republican; he was a prominent figure at the 1920 convention, and took an ostentatious part in the activities at the Harding headquarters.

But the parts played by these two oil speculators constitute a secondary issue. The matter of real concern is the corrupt procedure of a member of the Cabinet and the connivance of two of his colleagues. By his indiscreet utterance, therefore, President Coolidge has given his political opponents a great advantage; for it is incontestable that responsibility for the scandal rests square upon the Republican party.

A Democratic administration withstood for eight years the intrigues and pressure of the same corrupting influences which gained their ends through a Republican administration. President Wilson was never reached by the arguments of the oil manipulators and their experts. Secretary Daniels, of the Navy Department, stood like a rock against the importunities of the same interests that persuaded his successor, Denby. Franklin K. Lane, Secretary of the Interior under Wilson, entered Doheny's employ after resigning from the Cabinet, but he left no trail of corruption behind him; nor does any reproach lie against William G. McAdoo, who is said to have acted as counsel for oil corporations after his retirement to private life. It was a Republican Attorney General who advised the transfer of the Navy's oil

reserves to control of Fall, upon recommendation from a Republican Secretary of the Navy, and this was accomplished by Executive order within 60 days after the Republican administration took office. For President Coolidge to put forth the suggestion that this is a bipartisan scandal is to invite distrust of both his judgment and his motives.

But his political embarrassment has another aspect besides the damage inflicted upon his party. Mr. Coolidge not only is the legatee of the scandal, but he is the outstanding candidate for the Republican nomination for President. Attorney General Daugherty, who boasted of having made Mr. Harding President, and Secretary Denby, an influential figure in the politics of his State, are both slated as delegates to the next national convention, and have declared in advance for the nomination of Mr. Coolidge.

Daugherty will have much to say about the make-up of the Ohio delegation. He was the chief dispenser of patronage under President Harding. As Attorney General he has had control of the legal proceedings against interests charged with defrauding the Government in war contracts, and it is widely held that even in the few cases prosecuted by his department great leniency has been shown to the defendants. For all these reasons he is regarded as a powerful factor in presidential politics, both in the matter of rounding up delegates and in the raising of campaign contributions. Under these circumstances it would be too much to expect that retention of Daugherty by Mr. Coolidge should be viewed by the Nation as a course without political inspiration or significance.

Another source of embarrassment to the President is the fact that, unlike most of the Vice Presidents who proceeded him, he was an active participant in the affairs of the administration. He attended the Cabinet meetings and presumably heard discussed the proposals brought forward by Fall, Daugherty, and Denby. At any rate, if he did not long ago become aware of the wretched deals that were put through, he is the only high official in Washington so oblivious. The public can not but believe that he was in possession of the essential facts before they were dragged to light by the Senate's investigation.

All these circumstances will necessarily be taken into account by the Nation, despite its settled belief in Mr. Coolidge's personal integrity. Something more than that is required of the chief executive at this time. The country looks not only for rectitude but for high moral and political courage, and, above all, for action. In our judgment, which is animated by the friendliest feelings toward the President, he can not handle this problem successfully, or even safely, by relying upon narrowly technical or partisan skill. It is not a case for pettifogging tactics or taking advantage of developments; it is a case for action—direct, resolute, and uncompromising.

The American people still believe in President Coolidge's sense of personal and official honor, and suspend judgment until he has had ample opportunity to disclose his intentions. But his position is critical. Unless he acts, and acts with promptitude and in a manner to satisfy the demands of the country, his availability as a candidate will be gravely diminished, and his nomination will doom the Republican Party to defeat.

Mr. EDGE subsequently said: Mr. President, may I ask, through the Chair, the date of the newspaper from which the editorial was read a few minutes ago?

The PRESIDENT pro tempore. The article read by the Secretary appears in the Philadelphia North American of Friday, February 1, 1924.

Mr. EDGE. As I recall, Mr. President, the request that Mr. Doheny be subpœnaed to appear before the Senate committee was made on the afternoon of Thursday, January 31, by the Senator from Missouri [Mr. REED]. Apparently that editorial was written before the rather startling testimony which came out before the committee on Friday the 1st, which seemed to spread considerably the trail of oil activities. The editorial refers entirely to those things that have gone before, and not to what came out after Friday's meeting.

Mr. GLASS obtained the floor.

Mr. WALSH of Montana. Mr. President, I rise to correct the statement made just now by the Senator from New Jersey.

The PRESIDENT pro tempore. The Chair has recognized the Senator from Virginia.

Mr. GLASS. I yield to the Senator from Montana.

Mr. WALSH of Montana. The article refers to the fact that Mr. McAdoo, after his retirement from the office of Secretary of the Treasury, was employed by certain oil companies. That information came from Mr. Doheny. Accordingly, the article was written after Mr. Doheny had testified.

I desire to correct another misstatement of the Senator from New Jersey in his brief remarks. Mr. Doheny was not subpœnaed before the committee upon the suggestion of the Senator from Missouri. Mr. Doheny came before the committee at all times upon his own motion, and no subpœna was ever issued for him.

Mr. EDGE. Mr. President, if I may have just a moment to answer the Senator——

The PRESIDENT pro tempore. Does the Senator from Virginia yield to the Senator from New Jersey?

Mr. GLASS. I yield to the Senator.

Mr. EDGE. The word "subpœna" means little in the matter. I repeat that the request was made by the Senator from Missouri [Mr. REED] at the close of the session on the 31st. I can not reconcile at all the statement of the Senator from Montana that this article was written after the testimony, because——

Mr. WALSH of Montana. It is very easy.

Mr. EDGE. Just a moment. Thursday the 31st is certainly before the 1st of February. This testimony came out on the 1st of February. That editorial, according to the statement of the President of the Senate, appeared in the paper of the morning on which the committee met; so that the editorial writer could not have known, unless he knew in advance, what Mr. Doheny proposed to say. He may have known that. I have no way of verifying that; but he certainly could not have known all the facts that came out at the meeting on Friday, the 1st. That was absolutely impossible.

Mr. WALSH of Montana. The explanation is that Mr. Doheny gave that testimony on January 31, and the editorial appeared in the paper of Friday, February 1.

Mr. EDGE. January 31? According to the CONGRESSIONAL RECORD that I have just consulted for my own information the request was made on Thursday, the 31st.

Mr. WALSH of Montana. The examination was on the 1st; but it does not make any difference.

Mr. EDGE. That is what I said; the examination was on the 1st.

Mr. WALSH of Montana. The editorial was on the 1st; but it does not make any difference. The only information the public had concerning Mr. McAdoo's employment by any oil company came from Mr. Doheny on the stand.

Mr. EDGE. Then, apparently the editorial writer had advance information. Of course, we can not tell about that.

Mr. WALSH of Montana. No; he did not have advance information.

Mr. GLASS. Mr. President, my belated recognition and the subsequent interjections do not make the questions that I proposed to propound to the Senator from Ohio as apt as I would have wanted to make them. That Senator has escaped from the Chamber, evidently not desiring to be interrogated further. I merely wanted to ask if the nominating speech or any of the seconding speeches in the San Francisco convention dwelt on the aptitude or skill of the proposed vice-presidential candidate in bribing Republican Cabinet officers.

EDWARD L. DOHENY.

Mr. WILLIS. Mr. President, since there has been some controversy about the political affiliations of various eminent gentlemen, it has occurred to me that at this point it might be interesting if I should read briefly from the proceedings of the eighth day of the Democratic National Convention at San Francisco, Tuesday, July 6, 1920.

Mr. REED of Missouri. Mr. President, may I inquire under what order of business we are proceeding?

The PRESIDENT pro tempore. We are proceeding under the order of presentation of petitions and memorials.

Mr. WILLIS. Mr. President, I think the distinguished Senator from Missouri will not object to what I am about to read, because it is a petition presented to a great convention in behalf of a noted Democrat. I read from page 437 of the proceedings of the Democratic National Convention presided over, as I remember, with distinguished ability by the senior Senator from Arkansas [Mr. ROBINSON].

The chairman said:

The Chair presents to the convention Hon. Lorin A. Handley, of California, who will nominate a candidate for Vice President of the United States.

Then Mr. Handley said:

Ladies and gentlemen, California needs no credentials in this convention other than her electoral vote in 1916. [Applause.] We are perfectly willing to yield the Presidency to Ohio [applause], but not the glory of electing the last Democratic President of the United States. The people of the great Commonwealth of California are not interested in the personal ambitions of any candidates for President or for Vice President. They are interested in this great Republic and its future. We believe that the hope not only of our country lies in the election of the nominee of this convention, but that the hope of humanity and the world rests upon it, and we call upon the patriotic citizens, not only of our State but of every State in the Union, in order that the honor of America might be rehabilitated and our Nation restored to her rightful place in the councils of the world.

We not only want to elect the great Governor of the State of Ohio the next President of the United States but we want to elect with him

a great patriot to stand by his side to make humanity's fight. And California has a great patriotic son. California agrees with the Senator from Montana, and California agrees with the Senator from Nevada that you must not overlook nor forget that the great West is populated by free-minded and independent American citizens. [Applause.] And with the great progressive Governor of Ohio and with a great progressive, patriotic Democrat of the West the West can be brought into line again as it was in 1916. And California, therefore, presents her great and distinguished son, born in the State of Wisconsin. In poverty he started, a surveyor over the Southwest, a cowboy in Kansas, a prospector over practically every State of the West, a discoverer of the oil fields in southern California, and from thence he builds himself to the pinnacle of success such as every American citizen loves and admires, and California's son. The life of this man is a typical romance of American improved opportunity, and we take pride, therefore, in presenting to this convention as the man out of the West who can reach the hearts and the souls, not only of the Democrats of the West but of the great free-thinking people of the West. California, the great golden State, presents Edward L. Doheny for Vice President.

Mr. ASHURST. Mr. President, I want, however, to say that the Democratic National Convention almost unanimously rejected that oil-smeared man and nominated instead the scion of a great family, Franklin D. Roosevelt.

Mr. HARRISON. Mr. President, may I ask the Senator a question before he takes his seat?

Mr. WILLIS. Certainly.

Mr. HARRISON. I think the Senator omitted from that nominating speech——

Mr. WILLIS. It was not my speech. It was a speech made by Mr. Lorin A. Handley, of California.

Mr. HARRISON. May I ask the Senator if he did not omit reading from that nominating speech, however, that Mr. Doheny had also captured Republican Cabinet officers?

Mr. WILLIS. No.

Mr. HARRISON. Now, may I ask the Senator if he does not know it to be a fact that Mr. Doheny voted for Mr. Harding in the last election?

Mr. WILLIS. I do not know that to be a fact, and neither does the Senator know it to be a fact. I do know it to be a fact that Mr. Doheny was a Democrat, lauded to the skies, and was nominated at the Democratic convention in San Francisco for a place on the Democratic ticket as Vice President.

Mr. HARRISON. I state it as a fact, may I say to the Senator, that Mr. Doheny got very much angered at a speech made by the standard bearer of the Democratic Party, Mr. Cox, touching the Mexican proposition, when he stated that he would never place the Army and Navy behind the oil speculators in Mexico and go to war, and on that statement Mr. Doheny turned against the Democratic Party and voted for Mr. Harding.

PRESIDENTIAL APPROVAL.

A message from the President of the United States, by Mr. Latta, one of his secretaries, announced that the President had approved and signed the following acts:

On January 25, 1924:

S. 2. An act granting a franking privilege to Florence Kling Harding.

On January 30, 1924:

S. 484. An act to extend the time for the completion of the construction of a bridge across the Columbia River between the States of Oregon and Washington, at or within 2 miles westerly from the Cascade Locks in the State of Oregon;

S. 627. An act to authorize the National Society United States Daughters of 1812 to place a bronze tablet on the Francis Scott Key Bridge;

S. 801. An act granting the consent of Congress to the construction, maintenance, and operation by the Valley Transfer Railway Co., its successors and assigns, of a bridge across the Mississippi River between Hennepin and Ramsey Counties, Minn.;

S. 1367. An act granting the consent of Congress to the State of South Dakota for the construction of a bridge across the Missouri River between Brule County and Lyman County, S. Dak.; and

S. 1368. An act granting the consent of Congress to the State of South Dakota for the construction of a bridge across the Missouri River between Walworth County and Corson County, S. Dak.

On February 1, 1924:

S. 160. An act authorizing the State of Georgia to construct a bridge across the Chattahoochee River between the States of Georgia and Alabama, at or near Fort Gaines, Ga.

DEATH OF FORMER PRESIDENT WILSON.

The PRESIDENT pro tempore laid before the Senate the following cablegram from the Senate of Uruguay, which was read and ordered to lie on the table:

MONTEVIDEO, *February 7, 1924.*

AMERICAN SENATE,
Washington, D. C.:

The Senate of Uruguay renders homage, admiration, and respect to the memory of the statesman universal Wilson.

JOSE ESPALTER, *President,*
UABLDO RAMSON GUERRA,
First Secretary of Uruguay.

INTER-AMERICAN ELECTRICAL COMMUNICATIONS COMMITTEE (S. DOC. NO. 34).

The PRESIDENT pro tempore laid before the Senate the following message from the President of the United States, which was read and, with the accompanying papers, referred to the Committee on Foreign Relations and ordered to be printed:

To the Congress of the United States:

I transmit herewith a report by the Secretary of State concerning a meeting of the Inter-American Electrical Communications Committee, which will open at the City of Mexico on March 27, 1924, pursuant to a recommendation adopted by the Fifth International Conference of American States held at Santiago, Chile, March 25 to May 3, 1923. I request of Congress legislation authorizing an appropriation of $33,000, or so much thereof as may be necessary, for the purposes of participation by the Government of the United States in the said meeting, in the manner recommended by the Secretary of State.

CALVIN COOLIDGE.

THE WHITE HOUSE,
Washington, February 7, 1924.

THE VERA CRUZ CLAIMS (S. DOC. NO. 33).

The PRESIDENT pro tempore laid before the Senate the following message from the President of the United States, which was read and, with the accompanying papers, referred to the Committee on Foreign Relations and ordered to be printed:

To the Congress of the United States:

I transmit herewith a report by the Secretary of State requesting the submission anew to the present Congress of the matter of the claims arising out of the occupation of Vera Cruz, Mexico, by American forces in 1914, which formed the subject of a report made by the Acting Secretary of State to the President in September, 1922, and a message of President Harding to Congress dated September 14, 1922, which comprise Senate Document No. 252, Sixty-seventh Congress, second session, copies of which are furnished for the convenient information of the Congress.

Concurring in the recommendation made by President Harding that in order to effect a settlement of these claims the Congress, as an act of grace and without reference to the legal liability of the United States in the premises, authorize an appropriation in the sum of $45,518.69, I bring the matter anew to the attention of the present Congress in the hope that the action recommended may receive favorable consideration.

CALVIN COOLIDGE.

THE WHITE HOUSE,
Washington, February 7, 1924.

VISITORS TO NAVAL ACADEMY.

The PRESIDENT pro tempore. In accordance with the provision of the act of Congress of August 29, 1916, touching the appointment of the Board of Visitors to the Naval Academy, the Chair appoints the Senator from Maine [Mr. HALE] ex officio member of the Board of Visitors on the part of the Senate, and the Senator from Rhode Island [Mr. COLT], the Senator from Maryland [Mr. WELLER], the Senator from Florida [Mr. TRAMMELL], and the Senator from Louisiana [Mr. BROUSSARD] members.

MOVEMENT OF PRODUCTS IN THE PACIFIC NORTHWEST (S. DOC. NO. 35).

The PRESIDENT pro tempore laid before the Senate a communication from the chairman of the Interstate Commerce Commission, transmitting, pursuant to law, a report of the facts as ascertained concerning the adequacy and sufficiency of the transportation facilities furnished in 1922 for the movement of the products of the Northwest Pacific States by the carriers which serve that section, which was referred to the Committee on Interstate Commerce and ordered to be printed.

WASHINGTON GAS LIGHT CO.

The PRESIDENT pro tempore laid before the Senate a communication from the vice president of the Washington Gas Light Co., transmitting, pursuant to law, a detailed statement of the business of the Washington Gas Light Co., with a list of its stockholders, for the year ended December 31, 1923, which was referred to the Committee on the District of Columbia.

GEORGETOWN GAS LIGHT CO.

The PRESIDENT pro tempore laid before the Senate a communication from the president of the Georgetown Gas Light Co., transmitting, pursuant to law, a detailed statement of the business of the company, together with a list of stockholders for the year ended December 31, 1923, which was referred to the Committee on the District of Columbia.

PETITIONS AND MEMORIALS.

The PRESIDENT pro tempore laid before the Senate a resolution adopted by the council of the city of Cleveland, Ohio, protesting against the passage of immigration and other legislation discriminating against races, which was referred to the Committee on Immigration.

Mr. SMOOT. Mr. President, I have here a telegram in the form of a petition which is short, and I ask that it may be printed in the RECORD and referred to the Committee on Immigration.

There being no objection, the telegram was ordered to be printed in the RECORD and referred to the Committee on Immigration, as follows:

BINGHAM CANYON, UTAH, *January 30, 1924.*

Senator REED SMOOT,
Washington, D. C.:

We, the 71 members of the Italian Society, Lodge No. 68, of Bingham Canyon, Utah, appeal to your honor to explain to the session of the Senate that we dislike the new proposed law for the Italian immigration and would like your honor to do all you can for the Italians of your State.

F. PARISSEATI, *President.*
D. PEZOPANE, *Secretary.*
JOHN VIETTI, *Treasurer.*

Mr. FLETCHER. I present a petition, signed by numerous citizens of Miami, Fla., with reference to the increased price of gasoline. I ask that the body of the petition, which is very short, be printed in the RECORD without including the names, and that it be referred to the proper committee.

There being no objection, the petition was referred to the Committee on Manufactures and the body of it was ordered to be printed in the RECORD, as follows:

MIAMI, FLA., *January 30, 1924.*

To the Hon. DUNCAN U. FLETCHER,
Senator from Florida.

DEAR SIR: Gasoline having become a commodity (gasoline) essential to the business and social life of the Nation, we, the undersigned, view with alarm the proposed manipulation to increase the price of the same to a point that will be nearly prohibitive and which will have serious industrial effects.

We urge you to inaugurate legislation that will provide for adequate control and regulation of the price of this necessity of life, and, if possible, looking forward to the assertion of the Nation's right to the Nation's resources. The undersigned are all voters.

Mr. STERLING. I present a memorial from residents of Sioux Falls, S. Dak., remonstrating against the passage of H. R. 101, an immigration bill. I ask that the memorial be printed in the RECORD without the names and referred to the Committee on Immigration.

There being no objection, the memorial was referred to the Committee on Immigration and ordered to be printed in the RECORD without the names, as follows:

SIOUX FALLS, S. DAK., *January 29, 1924.*

Hon. THOMAS STERLING,
Senate, Washington, D. C.

MY DEAR MR. STERLING: We, the Sioux Falls Chapter of Hadassah, a nation-wide organization of 15,000 women citizens, at a meeting of our board of directors held on the 29th of January, 1924, having carefully examined and discussed immigration bill H. R. 101 now pending in Congress and condemning it as flagrantly un-American, do hereby resolve:

"Whereas it unfairly discriminates against nationalities from particular sections of Europe. Incidentally former alien enemies are favored against allied nations;

"Whereas this discrimination, which in effect violates our treaties with certain countries, implies an acceptance of a pseudo-scientific theory of racial superiority and is, moreover, contrary to American ideals of equality and justice;

"Whereas it is offensive to large groups of American citizens, implying official sanction to racial prejudice;

"Whereas it furthermore ignores the notable contribution of the immigrants of the past generation to our national prosperity in time of peace and to the glory of America in time of war: Therefore be it

"*Resolved*, That the Sioux Falls Chapter of Hadassah go on record as protesting against the passage of this bill by Congress; be it further

"*Resolved*, That copies of this resolution be sent to the Senators and Representatives of this State and city, respectively, as a means of registering our opinion on this important subject."

Mr. STERLING. I also present a memorial of residents of Clark County, S. Dak., remonstrating against the further issuance of tax-exempt bonds and securities. I ask that the memorial be printed in the RECORD without the names and referred to the Committee on the Judiciary.

There being no objection, the memorial was referred to the Committee on the Judiciary and ordered to be printed in the RECORD without the names, as follows:

To Hon. THOMAS STERLING,
Washington, D. C.

We, the undersigned, residents of the county of Clark, S. Dak., do hereby register our disapproval of the issuance of all tax-exempt bonds and securities and most earnestly and respectfully request that you use all the influence of your high office to defeat the further issuance of such obligations.

Mr. EDGE presented a resolution of the board of managers of the Junior Order of United American Mechanics at Trenton, N. J., favoring the passage of legislation further restricting immigration, which was referred to the Committee on Immigration.

He also presented resolutions adopted by members of the Clearing House Committee of Essex County, the State Federation of Women's Clubs, the State League of Women Voters, and the Parent Teachers' Association, all in the State of New Jersey, favoring such action to effect a realignment of the Veterans' Bureau, the Boards of Vocational Training, Rehabilitation, Hospitalization, and any other department related to the ex-service men as will coordinate and expedite the functions thereof, etc., which was referred to the Committee on Finance.

Mr. KING presented a resolution of the Lions' Club of Salt Lake City, Utah, favoring the construction of proposed extensins to the Strawberry reclamation project in Utah and the making of adequate appropriations therefor, which was referred to the Committee on Irrigation and Reclamation.

Mr. WARREN presented a resolution of the Cheyenne (Wyo.) Grocers and Butchers' Association, favoring amendment of the Federal bankruptcy act, which was referred to the Committee on Banking and Currency.

He also presented the petition of sundry clerks of the Casper (Wyo.) post office, praying for the passage of Senate bill 1898, to readjust salaries of postmasters and clerks in the Postal Service, which was referred to the Committee on Post Offices and Post Roads.

Mr. McKINLEY presented a memorial of sundry citizens of Chicago, Ill., remonstrating against the enactment of legislation making any substantial changes in the transportation act of 1920, which was referred to the Committee on Interstate Commerce.

Mr. REED of Pennsylvania presented a memorial of the Philadelphia (Pa.) Board of Trade, remonstrating against the enactment of Senate bill 1642, to provide for the purchase and sale of farm products, which was referred to the Committee on Agriculture and Forestry.

He also presented a resolution of the Philadelphia (Pa.) Board of Trade, favoring the passage of House bill 646, to make valid and enforceable written provisions or agreements for arbitration of disputes arising out of contracts, maritime transactions, or commerce among the States or Territories or with foreign nations, which was referred to the Committee on the Judiciary.

He also presented a petition of the Philadelphia (Pa.) Board of Trade, praying an amendment to the Constitution to prevent the further issuance of tax-exempt securities, which was referred to the Committee on the Judiciary.

Mr. LADD presented petitions of George W. Johnson and 318 other citizens of the States of North Dakota and Montana, praying for the enactment of legislation increasing the tariff duties on wheat, which were referred to the Committee on Finance.

Mr. ROBINSON presented letters in the nature of memorials of the Harding Glass Co., of S. J. Wolferman, Al Pollock, and of A. N. Sicard, of Fort Smith; of H. H. Smiley, of Texarkana; and of E. L. Matlock, of Van Buren, all in the State of Arkansas, remonstrating against any amendment to

the transportation act of 1920, which were referred to the Committee on Interstate Commerce.

Mr. HOWELL presented a petition of sundry citizens of Omaha and Collins, Nebr., praying for the passage of Senate bill 742, to relieve unemployment among civilian workers of the Government, to remove the financial incentives to war, to stabilize production in Federal industrial plants, to promote the economical and efficient operation of these plants, and for other purposes, which was referred to the Committee on Military Affairs.

Mr. MAYFIELD presented a petition, numerously signed, of Confederate veterans in the State of Texas, praying for disbursement of $60,000,000 held in trust by the Government for the Southern States, which was referred to the Committee on Claims.

Mr. LODGE presented a resolution of the mayor and board of aldermen of Springfield, Mass., favoring the passage of legislation increasing the salaries of postal employees, which was referred to the Committee on Post Offices and Post Roads.

He also presented petitions of sundry citizens in the State of Massachusetts, praying for the participation of the United States in the Permanent Court of International Justice, which were referred to the Committee on Foreign Relations.

Mr. JONES of Washington presented a resolution adopted by the supervisory officials, the city clerks, city letter carriers, and rural carriers of the United States post office, of Olympia, Wash., favoring the enactment of legislation increasing the salaries of postal employees, which was referred to the Committee on Post Offices and Post Roads.

He also presented the petition of the Wenatchee Produce Co. and sundry of its employees, of Wenatchee, Wash., praying for the adoption of the so-called Mellon tax-reduction plan, and remonstrating against the passage of legislation granting adjusted compensation to ex-service men, which was referred to the Committee on Finance.

Mr. WILLIS presented a resolution of the council of the city of Cleveland, Ohio, protesting against the passage of immigration and other legislation discriminating against races, which was referred to the Committee on Immigration.

He also presented the petition of O. J. Lecklider and 211 other citizens in the State of Ohio, praying for the adoption of the so-called Mellon tax-reduction plan, which was referred to the Committee on Finance.

Mr. CURTIS presented a resolution of the Chamber of Commerce of Ellsworth, Kans., protesting against amendment of the transportation act of 1920, which was referred to the Committee on Interstate Commerce.

He also presented a memorial, numerously signed, by railway shopmen of the Santa Fe Railway System, in the State of Kansas, remonstrating against the enactment of legislation amending the transportation act of 1920, which was referred to the Committee on Interstate Commerce.

He also presented petitions of sundry rural letter carriers of Sedgwick, Nemaha, Jewell, Clay, and Doniphan Counties, in the State of Kansas, praying for the enactment of legislation granting a 6-cent per mile equipment allowance to rural letter carriers, which were referred to the Committee on Post Offices and Post Roads.

He also presented a resolution of the Disabled American Veterans of the World War, Department of Kansas, of Topeka, Kans., favoring the enactment of legislation granting adjusted compensation to ex-service men, which was referred to the Committee on Finance.

Mr. FRAZIER presented the petitions of J. P. Gunderson and 91 other citizens, of O. T. Olson and 44 other citizens, of L. C. Thompson and 19 other citizens, of K. L. Smith and 22 other citizens, of O. B. Salvog and 18 other citizens, and of Charles W. Kamp and 50 other citizens, all in the State of North Dakota, praying for the enactment of legislation increasing the tariff duties on wheat, also repealing the drawback provision and the milling-in-bond privilege of the Fordney-McCumber Tariff Act of 1922, and also praying for the establishment of a Government export agency for wheat, which were referred to the Committee on Finance.

He also presented the petition of J. G. Kane and 14 other citizens of Russell, N. Dak., praying for the passage of Senate bill 1597, creating a revolving loan of $50,000,000 for the benefit of the livestock industry, which was referred to the Committee on Agriculture and Forestry.

He also presented a resolution adopted by the Woman's Club, the Commercial Club, and sundry citizens, all of Rolla, Rolette County, N. Dak., protesting against ratification of the treaty granting the Isle of Pines to Cuba, which was referred to the Committee on Foreign Relations.

Mr. CAPPER presented memorials, numerously signed, of sundry members of the shop associations of the Atchison, Topeka & Santa Fe Railway system, in the State of Kansas, remonstrating against the passage of legislation making any substantial changes in the transportation act of 1920, which were referred to the Committee on Interstate Commerce.

He also presented petitions of members of the Highland Woman's Christian Temperance Union, of Jewell County, Kans., and sundry citizens of Emporia, in the State of Kansas, praying for the passage of legislation creating a department of education, which were referred to the Committee on Education and Labor.

He also presented a petition of members of Branch Lodge No. 145, National Association of Letter Carriers, of Fort Scott, Kans., praying for the passage of legislation beneficial to the letter carriers, which was referred to the Committee on Post Offices and Post Roads.

He also presented petitions of rural letter carriers of Sedgwick and Nemaha Counties, in the State of Kansas, praying for the passage of legislation providing a rural letter carriers' equipment allowance, which were referred to the Committee on Post Offices and Post Roads.

He also presented numerous letters in the nature of petitions of sundry citizens in the State of Kansas, praying for the adoption of the so-called Mellon tax-reduction plan, which were referred to the Committee on Finance.

Mr. McLEAN presented a telegram in the nature of a petition from the West Hartford League of Women Voters, of Hartford, Conn., praying for the participation of the United States in the Permanent Court of International Justice, which was referred to the Committee on Foreign Relations.

He also presented petitions of L. R. Ferriss, of Hartford; of H. S. Lockwood, president of the City National Bank, of South Norwalk; and of sundry citizens of Southington, all in the State of Connecticut, praying for the adoption of the so-called Mellon tax-reduction plan, which were referred to the Committee on Finance.

He also presented petitions of the Westport Manufacturers Association, of Westport, and the Farmers and Mechanics Savings Bank, of Middletown, both in the State of Connecticut, praying for the adoption of the so-called Mellon tax-reduction plan and opposing the granting of a soldiers' bonus, which were referred to the Committee on Finance.

He also presented a resolution of L. W. Steele Camp, No. 34, Sons of Veterans, United States Army, Division of Connecticut, of Torrington, Conn., favoring the enactment of legislation providing a pension of $72 per month to Civil War veterans and of $50 per month to their widows, which was referred to the Committee on Pensions.

He also presented a petition of the Connecticut State Dental Association, praying for the passage of Senate bill 1785, to amend an act entitled "An act for the regulation of the practice of dentistry in the District of Columbia, and for the protection of the people from empiricism in relation thereto," approved June 6, 1892, and acts amendatory thereof, which was referred to the Committee on the District of Columbia.

He also presented memorials of the Chamber of Commerce of Manchester and of the Lumber Dealers Association (Inc.), of Hartford, in the State of Connecticut, remonstrating against the enactment of legislation providing for a workmen's compensation and insurance fund in the District of Columbia, which were referred to the Committee on the District of Columbia.

He also presented papers in the nature of petitions from Raymond W. Harris Post, No. 145, Veterans of Foreign Wars, and the Naval Veterans Association, both of Bridgeport; Geo. A. Smith Post, No. 74, the American Legion, of Fairfield; Richard E. Hourigan Post, No. 594, Veterans of Foreign Wars, of Norwich; Kiltonic Post, No. 72, the American Legion, of Southington; and Seicheprey Post, No. 2, the American Legion, of Bristol, all in the State of Connecticut, praying for the passage of legislation granting adjusted compensation to ex-service men, which were referred to the Committee on Finance.

REPORT OF INTERNATIONAL TRADE COMMISSION, SOUTHERN COMMERCIAL CONGRESS.

Mr. FLETCHER. I present, with a view to having it printed as a Senate document, the report of the International Trade Commission of the Southern Commercial Congress, which is supplemental to a report which was originally printed in the RECORD. I ask that it be referred to the Committee on Printing.

The PRESIDENT pro tempore. Without objection, it is so referred.

MARKETING OF COTTON.

Mr. SMITH. Mr. President, some time last week I called the attention of the Senate to a communication that had reference to certain English activities. In the circular letter to which I referred was a statement to the effect, as I said, that the English organized spinners were attempting to get the American spinners to join with them, and that they had received the encouragement of high officials at Washington. Some remarks were made subsequently to my statement in which the name of Mr. Hoover was mentioned. I have a communication from Mr. Hoover which he requests me to present to the Senate, and I will read it, as he has requested. He says:

My attention has this morning been called to your remarks before the Senate yesterday based upon a quotation as follows:

"Information that the International Federation of Spinners, with headquarters at Manchester, England, is seeking to induce the spinners of this country to join an organized movement for the restriction of the consumption of cotton, and the statement that high Government officials at Washington approve of the movement, was a surprise and the sensation of the week."

It would not have occurred to me that this referred to myself if it had not been for subsequent statements of the junior Senator from Alabama in which he directly attributed this matter to me without one atom of truth.

I had never heard of the matter until my attention was called to the CONGRESSIONAL RECORD this morning. I have since then made inquiry through the textile division of this department and am assured by them that they had not heard of it. At my direction they have made inquiries of the Northern and Southern American Spinners' Associations, and they state they have never been approached in the matter.

I am inclined to believe this entire matter is a mare's nest, so far as any activities in the United States are concerned, and arises from the following: The International Federation of Spinners is a British organization which has no American membership. It is divided into sections according to the raw material used—American section, Egyptian section, etc. This association and certain emergency committees, one of which was appointed by the mayor of Manchester, have apparently been debating some new method of controlling distribution and spinning among the different British mills. They had such an agreement some time ago restricting the section spinning American cotton to 50 per cent. The last agreement expired December 1, and discussions of its renewal in some form are under way. The use of this term "American section" appears to us to be the root of these misimpressions.

In view of the remarks of the Senator from Alabama, I trust you will do me the courtesy of introducing this statement to the Senate.

So much for Mr. Hoover's part in it, and the reference made to him. I have read this letter; but I have here an article from the Manchester Guardian which shows that they have made an attempt, so this paper alleges, to get the American spinners to agree to approach Congress with a view to the setting aside of the Sherman antitrust law in order that there may be an understanding to avert the calamity, as they call it, that will come upon the spinners of the world because of the providentially short crops of cotton made in America. In other words, they have combined to protect themselves by refusing to spin the cotton until the price is sufficiently low. I ask that this article from the Manchester Guardian may be printed in the RECORD in connection with what I have had to say.

The PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

The matter referred to is as follows:

THE SUPPLY OF RAW COTTON.—QUESTION OF "SHORT TIME" IN ALL COUNTRIES.

[From the Manchester Guardian Commercial, Thursday, January, 3, 1924.]

The International Cotton Federation—to accept a title rather less cumbrous than the full official one—is an organization representing cotton spinners and manufacturers in most countries of the world outside the United States. It was originally formed in 1904 for the purpose of effecting a measure of universal short time to cope with the Sully "corner" of that season. Since then it has been active in investigating and encouraging the cultivation of cotton in all suitable areas. Every six months it collects from all members statistics of the consumption of cotton, of mill stocks, of active spindles, and short time working. Every two years it convenes an international conference at which the more urgent problems of the day are discussed.

To-day the federation is faced with the problem of deciding whether it shall repeat the experiment to which it owes its birth. The world supplies of cotton for this reason will only go round if high prices succeed in reducing the demand. Fortunately, there is an alternative—the organized curtailment of manufacturing activity—which would meet the same purpose without upsetting the industry by excessive price fluctuations. But there are difficulties in the way. The international federation governs only by consent. It will take time to persuade member nations to consent to short time while their own industries are active, and, once short time has been officially promulgated, as the recent history of Oldham proves, there is the difficulty of enforcing obedience among individual mills when they receive sufficient orders to keep them fully employed. Further, there is the cotton industry of the United States, owing no allegiance to the international federation, consuming six to seven million bales a year, and supplying a population whose purchasing power may rise even to goods made out of cotton at 40 cents a pound.

However, the current International Cotton Bulletin makes it quite clear that the officials of the federation are considering the possibilities of universal short time. Mr. Fred Holroyd, the vice president, writes:

"The United States of America cotton manufacturers are prevented by the Sherman law from organizing a curtailment of the production of their mills, and the International Cotton Federation can not take action for the introduction of such a scheme because, in the first instance, the Americans do not form part of the organization, and it would not dare to suggest illegal operations in the United States of America. In view of the enormous hardship which would be occasioned to the operatives in the United States of America and other countries if the present American method of laissez faire be continued, it would seem impossible that the United States Government should object to an exception being made to the Sherman law in this instance, provided the American Cotton Manufacturers' Association, viz, the Arkwright Club, National Association of Cotton Manufacturers, and the American Cotton Manufacturers' Association approach jointly their Government. The alternative will be that we shall witness the extraordinary case of mills situated in the midst of the Cotton Belt standing idle by May or June for want of cotton.

"If the mills in the United States of America are prepared to stop work on Saturdays and Mondays until the new crop comes it they would probably succeed in persuading the European cotton spinner to fall into line, although he has already done a big share of short time due to another cause. We may take it that the world has so far this season used over 4,000,000 bales of cotton of the new crop; consequently at the present rate the balance of the crop will last the industry until, roughly, the end of April, but the scramble for it is already with us, and will be intensified more and more as the season progresses."

Another very interesting view of the situation is to be found in a market report specially written by Messrs. C. Tattersall & Co.

CONVENTION OF INSTRUCTORS OF THE DEAF.

Mr. JONES of Washington. The proceedings of the twenty-third meeting of the Convention of American Instructors of the Deaf was referred to the Committee on the District of Columbia. The chairman of that committee asked me to request that that committee be discharged and that these proceedings be referred to the Committee on Printing. I ask that that may be done.

The PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

REPORTS OF COMMITTEES.

Mr. BURSUM, from the Committee on Pensions, to which was referred the bill (S. 2154) to amend the act of September 22, 1922, entitled "An act to provide for the applicability of the pension laws to certain classes of persons in the military and naval services not entitled to the benefits of Article III of the war risk insurance act, as amended," reported it without amendment and submitted a report (No. 127) thereon.

He also, from the same committee, to which was referred the bill (S. 5) granting pensions and increase of pensions to certain soldiers and sailors of the Civil and Mexican Wars and to certain widows, former widows, minor children, and helpless children of said soldiers and sailors, and to widows of the War of 1812, and to certain Indian war veterans and widows, reported it with amendments and submitted a report (No. 128) thereon.

Mr. PHIPPS, from the Committee on Banking and Currency, to which were referred the following joint resolutions, reported them each with an amendment:

A joint resolution (S. J. Res. 3) authorizing the Federal Reserve Bank of Kansas City to invest its funds in the construction of a building for its branch office at Denver, Colo.; and

A joint resolution (S. J. Res. 51) authorizing the Federal Reserve Bank of Kansas City to invest its funds in the construction of a building for its branch office at Omaha, Nebr.

FEDERAL RESERVE BANK OF KANSAS CITY.

Mr. PHIPPS. From the Committee on Banking and Currency I report back favorably, with an amendment, Senate Joint Resolution No. 3. I desire to have the joint resolution read,

and then I shall ask unanimous consent for the present consideration of the joint resolution.

The PRESIDENT pro tempore. Without objection, the joint resolution will be read.

The joint resolution (S. J. Res. 3) authorizing the Federal Reserve Bank of Kansas City to invest its funds in the construction of a building for its branch office at Denver, Colo., was read, as follows:

Resolved, etc., That the Federal Reserve Bank of Kansas City is hereby authorized to invest in the construction of a building for its branch office at Denver, Colo., on lots heretofore acquired for that purpose, a sum not to exceed $650,000 out of its paid-in capital stock and surplus.

The PRESIDENT pro tempore. Is there objection to the present consideration of the joint resolution?

Mr. ROBINSON. I think the joint resolution should go over.

The PRESIDENT pro tempore. It will go to the calendar.

JOSEPH Y. DREISONSTOK.

Mr. MOSES. Mr. President, on last Friday I introduced Senate bill 2333, for the relief of Joseph Y. Dreisonstok, which was referred to the Committee on Claims. It is not a measure of the ordinary type asking for relief, because it deals with the rating of an officer in the United States Navy, and it should be referred to the Committee on Naval Affairs. I ask unanimous consent that the Committee on Claims be discharged from further consideration of the bill and that it be referred to the Committee on Naval Affairs.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from New Hampshire? The Chair hears none. The Committee on Claims is discharged from further consideration of the bill, and it will be referred to the Committee on Naval Affairs.

BILLS AND JOINT RESOLUTION INTRODUCED.

Bills and a joint resolution were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. LODGE:

A bill (S. 2359) authorizing the preservation of certain public works in and around Boston Harbor, Mass.; to the Committee on Commerce.

By Mr. ELKINS:

A bill (S. 2360) granting a pension to Rufus Anglin; to the Committee on Pensions.

A bill (S. 2361) for the relief of James L. Barnett; to the Committee on Civil Service.

By Mr. HOWELL:

A bill (S. 2362) granting an increase of pension to John L. Thorpe; to the Committee on Pensions.

A bill (S. 2363) conferring jurisdiction on the Court of Claims to hear, determine, and render final judgment in the claims of the Omaha Tribe of Indians against the United States; to the Committee on Indian Affairs.

By Mr. MOSES:

A bill (S. 2364) granting an increase of pension to Abby F. Dudley (with accompanying papers); to the Committee on Pensions.

By Mr. SWANSON:

A bill (S. 2366) for the relief of D. O. Clements; to the Committee on Claims.

By Mr. SHIELDS:

A bill (S. 2367) to amend certain sections of the Judicial Code relating to the Court of Claims; to the Committee on the Judiciary.

By Mr. SHEPPARD:

A bill (S. 2368) for the relief of C. N. Markle; and

A bill (S. 2369) for the relief of the Eagle Pass Lumber Co., of Eagle Pass, Tex.; to the Committee on Claims.

By Mr. GERRY:

A bill (S. 2370) granting a pension to Maria A. Ballou; to the Committee on Pensions.

By Mr. CAPPER:

A bill (S. 2371) to authorize the Secretary of Agriculture to advise and assist associations of producers of agricultural products and others in marketing their products at home and abroad by the promotion of sound business practices, establishing uniform standards of classification, providing for inspection of products, the arbitration of disputes, registering approved dealers and handlers, a market news service, and for other purposes; to the Committee on Agriculture and Forestry.

By Mr. NORRIS:

A bill (S. 2372) to provide for the manufacture of explosives for the use of the Army and Navy, to provide for the manufacture of fertilizer for agricultural purposes, to incorporate the Federal Chemical Corporation, and for other purposes; to the Committee on Agriculture and Forestry.

By Mr. WARREN:

A bill (S. 2373) granting an increase of pension to Jennie Boland (with accompanying papers); to the Committee on Pensions.

By Mr. HARRELD:

A bill (S. 2374) providing for the appointment of Michael McDonald (formerly a squadron sergeant major, United States Army), a warrant officer, United States Army, and to place him upon the retired list immediately thereafter; to the Committee on Military Affairs.

A bill (S. 2375) to facilitate the suppression of the intoxicating liquor traffic among Indians; to the Committee on Indian Affairs.

By Mr. BURSUM:

A bill (S. 2376) granting a pension to Victoria Gallego de Silva;

A bill (S. 2377) granting a pension to John Lannon; and

A bill (S. 2378) granting an increase of pension to James M. Piersol; to the Committee on Pensions.

By Mr. SHORTRIDGE:

A bill (S. 2379) granting an increase of pension to John F. Connolly; to the Committee on Pensions.

By Mr. BROOKHART:

A bill (S. 2380) to amend section 402 of the war risk insurance act; to the Committee on Finance.

By Mr. CURTIS:

A bill (S. 2381) granting an increase of pension to James N. Yates (with accompanying papers); to the Committee on Pensions.

By Mr. JONES of Washington:

A bill (S. 2382) making it unlawful for certain persons to prosecute claims against the Government, and for other purposes; to the Committee on the Judiciary.

A bill (S. 2383) for the relief of Vincent Rutherford; to the Committee on Military Affairs.

A bill (S. 2384) to provide for the construction of a vessel for the Coast Guard; to the Committee on Commerce.

A bill (S. 2385) authorizing and directing the Secretary of the Interior to patent certain lands to school district No. 58 of Clallam County, State of Washington, and for other purposes (with accompanying papers); to the Committee on Public Lands and Surveys.

By Mr. ERNST:

A bill (S. 2387) to authorize the President to constitute an interdepartmental patents board; and

A bill (S. 2388) to authorize the issuance and withholding and secrecy of patents essential to national defense; to the Committee on Patents.

By Mr. REED of Pennsylvania:

A bill (S. 2389) for the relief of the owner of the scow *John H. Ryerson;*

A bill (S. 2390) for the relief of the owner of cargo aboard the American steamship *Lassell;* and

A bill (S. 2391) for the relief of the underwriters of cargo aboard the steamship *Oconee;* to the Committee on Claims.

A bill (S. 2392) authorizing an appropriation to indemnify damages caused by the search for the body of Admiral John Paul Jones; to the Committee on Foreign Relations.

By Mr. STERLING:

A bill (S. 2393) for the relief of Erick Iverson; to the Committee on Claims.

A bill (S. 2394) granting a pension to Maud Mabel Wooley; and

A bill (S. 2395) granting a pension to Eugene T. C. J. Sobieski, known as John Sobieski; to the Committee on Pensions.

By Mr. KENDRICK:

A bill (S. 2396) granting a pension to Mary Leeder; to the Committee on Pensions.

A bill (S. 2397) to provide for refunds to veterans of the World War of certain amounts paid by them under Federal irrigation projects; to the Committee on Irrigation and Reclamation.

A bill (S. 2398) authorizing entry as revocable town sites by occupants on, and providing for annual rental of, public leased lands in the State of Wyoming; to the Committee on Public Lands and Surveys.

By Mr. EDGE:

A bill (S. 2399) to provide and adjust penalties for violation of the navigation laws, and for other purposes; to the Committee on Commerce.

A bill (S. 2400) providing that the Panama Canal rules shall govern in the measurement of vessels for the imposition of tolls; to the Committee on Interoceanic Canals.

A bill (S. 2401) providing for the compensation of retired warrant officers and enlisted men of the Army, Navy, and Marine Corps, or any other service or department created by or under the jurisdiction of the United States Government, and warrant officers and enlisted men of the Reserve Corps of the Army and Navy; to the Committee on Military Affairs.

A bill (S. 2402) for the relief of Frank W. Wiedenmann;

A bill (S. 2403) for the relief of Ida E. Godfrey;

A bill (S. 2404) for the relief of Lee C. Davis; and

A bill (S. 2405) for the relief of Thomas N. Emley; to the Committee on Claims.

By Mr. SPENCER:

A bill (S. 2406) granting a pension to E. H. Grantham; and

A bill (S. 2407) granting a pension to Maggie J. Henry (with accompanying papers); to the Committee on Pensions.

By Mr. McNARY:

A bill (S. 2408) to amend section 9 of the act entitled "An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," approved October 15, 1914; to the Committee on the Judiciary.

A bill (S. 2409) to authorize the more complete endowment of agricultural experiment stations, and for other purposes; to the Committee on Agriculture and Forestry.

By Mr. COPELAND:

A bill (S. 2410) granting a pension to Elmira Bauer, now known as Elmira Hickey; to the Committee on Pensions.

By Mr. McLEAN:

A bill (S. 2411) granting a pension to Mary E. Carroll (with accompanying papers);

A bill (S. 2412) granting a pension to George F. Smith (with accompanying papers); and

A bill (S. 2413) granting a pension to Mary M. Parrish (with accompanying papers); to the Committee on Pensions.

By Mr. RANSDELL:

A bill (S. 2414) to prevent the pollution by oil of navigable rivers of the United States; and

A bill (S. 2415) to create the Inland Waterways Corporation for the purpose of carrying out the mandate and purpose of Congress as expressed in sections 201 and 500 of the transportation act, and for other purposes; to the Committee on Commerce.

By Mr. BROUSSARD:

A bill (S. 2416) granting an increase of pension to George C. Rimes (with accompanying papers); to Committee on Pensions.

By Mr. ASHURST:

A bill (S. 2417) to amend and modify section 301 of the war risk insurance act as amended; to the Committee on Finance.

A bill (S. 2418) authorizing the completion of the diversion dam and irrigation system on the Gila River Indian Reservation, Ariz.; to the Committee on Indian Affairs.

By Mr. NORBECK:

A bill (S. 2419) granting the consent of Congress to the State of South Dakota for the construction of a bridge across the Missouri River between Hughes County and Stanley County, S. Dak.; and

A bill (S. 2420) granting the consent of Congress to the State of South Dakota for the construction of a bridge across the Missouri River between Potter County and Dewey County, S. Dak.; to the Committee on Commerce.

By Mr. McKINLEY:

A bill (S. 2421) for the relief of John J. Beattie; to the Committee on Claims.

By Mr. CAPPER:

A bill (S. 2422) to amend the act entitled "An act to fix and regulate the salaries of teachers, school officers, and other employees of the Board of Education of the District of Columbia," approved June 20, 1906, as amended, and for other purposes; to the Committee on the District of Columbia.

By Mr. LODGE:

A bill (S. 2423) making an appropriation to be expended under the provisions of section 7 of the act of March 1, 1911, entitled "An act to enable any State to cooperate with any other State or States, or with the United States, for the protection of the watersheds of navigable streams, and to appoint a commission for the acquisition of lands for the purpose of conserving the navigability of navigable rivers," as amended; to the Committee on Agriculture and Forestry.

By Mr. PHIPPS:

A bill (S. 2424) to reduce the fees for grazing livestock on national forests; to the Committee on Agriculture and Forestry.

By Mr. CAMERON:

A bill (S. 2425) to amend the act of October 3, 1913 (ch. 17, 38 Stat. L. 203), creating the judicial district of Arizona; to the Committee on the Judiciary.

By Mr. PEPPER:

A joint resolution (S. J. Res. 73) providing for the appointment of a commission for the purpose of erecting in Potomac Park in the District of Columbia a memorial to those members of the armed forces of the United States from the District of Columbia who served in the Great War; to the Committee on the Library.

RESTRICTION OF IMMIGRATION.

Mr. MOSES. Mr. President, on behalf of the senior Senator from Indiana [Mr. WATSON], who is absent from the city, I introduce a bill which I ask to have referred to the Committee on Immigration.

By Mr. MOSES (for Mr. WATSON):

A bill (S. 2365) to limit the immigration of aliens into the United States, and to provide a system of selection in connection therewith, and for other purposes; to the Committee on Immigration.

Mr. MOSES. I ask unanimous consent to make a brief statement in reference to this measure in behalf of the Senator from Indiana.

The PRESIDENT pro tempore. Is there objection? The Chair hears none.

Mr. MOSES. This measure is one which has been drafted in collaboration between the senior Senator from Indiana and the Secretary of Labor. The senior Senator from Indiana, however, wishes it to be distinctly understood that the percentages contained in the bill are his and not those of the Secretary of Labor.

In that connection I ask unanimous consent to have printed in the RECORD a memorandum further explanatory of the bill.

The PRESIDENT pro tempore. Is there objection?

There being no objection, the matter was referred to the Committee on Immigration and ordered to be printed in the RECORD, as follows:

It will be observed at the outset that whatever quota restriction is adopted that restriction will apply to all countries, thus marking a radical departure from existing laws or pending legislation, which eliminate Canada, Mexico, and South and Central America from the operation of the quota limitations.

Another change equally as important from an administrative standpoint is the distribution of the annual quota allotment over the entire period of 12 months. No more immigration certificates than one-twelfth of the annual quota may be issued in any calendar month. Under this provision the quota of any nationality can not be exhausted as at present, but will be continuing throughout the year and the years to follow.

A consular officer is allotted so many immigration certificates for any given month. When these are all issued the immigrant must make application in the following month, and so on throughout the year. when in possession of an immigration certificate the immigrant is at liberty to depart for the United States at any time within a year after the date the certificate is issued without, on the one hand, interrupting steamship schedules, and on the other without congesting the ports of arrival. Unseemly racing for position will be eliminated, as the immigrant's admission is no longer contingent upon the time of his arrival in the United States, and a more careful examination and inspection at the ports, with less inconvenience to the immigrant, will result.

The selective features of the bill are worked out through the provisions giving preference to certain classes in the issuance of immigration certificates. Having in mind the desirability of reuniting families, it is provided that the husbands, wives, and minor children of alien residents who have declared their intention to become citizens shall have the first preference in the issuance of immigration certificates. Then follows, in the order named, immigrants who served in the military and naval forces of the United States during the World War; ministers of any religious denomination; professors; skilled laborers; all other laborers, including domestic servants; and finally all other immigrants.

Thus it will be seen that Congress having once determined the number of immigrants that shall come to the United States in any one year, a method is provided for the proper selection of the best of those applying by requiring, in the first place, that the immigrant seeking admission to this country make application to an American consular officer for an immigration certificate. This application will of necessity set forth the family history and personal record of the alien, and supplemented by such investigation as the consular officer shall make will afford such information concerning the immigrant as will enable the officer to determine whether the applicant is a desirable or an undesirable immigrant. Upon arrival at our ports the immigrant is subjected to the usual inspection and medical examination, and if found to meet the mental, moral, and physical standards required by our immigration laws is admitted; otherwise he is excluded and returned to the country whence he came.

By the means of a special immigration certificate demands for labor of all kinds, skilled and unskilled, including farm labor, are met, and

such labor made readily available, regardless of quota limitations and restrictions upon application to the Secretary of Labor, while on the other hand, by the provisions of another section, immigration may be suspended in whole or in part from all or any designated country when unemployment in the United States is so widespread as to justify such action.

It will be observed that the term "nonquota" is nowhere used in the proposed legislation, and that the corresponding provision authorizing the issuance of a special immigration certificate is limited in its application to but two classes, namely, (1) husband, wife, minor child, dependent father or mother of a citizen of the United States, and (2) farmers and skilled or unskilled laborores when labor of like kind unemployed can not be found in the United States. In either case the special immigration certificate can be had only upon application to the Secretary of Labor, and then in the case of laborers only, when a strike or lockout does not exist or impend in the industry seeking to import such labor.

Provision is also made to satisfy the periodical demands for laborers from Canada and Mexico by classing such laborers as nonimmigrant when authorized by the Secretary of Labor to enter the United States for the purpose of laboring at a specified occupation for a definite time at a designated place.

In the cases referred to it is hoped to satisfy the legitimate demands for labor without destroying the restrictive features of any law that may finally be enacted. It is believed that the discretion vested in the Secretary of Labor will be exercised only when that official is satisfied that there is a real and pressing necessity for the particular labor sought. Furthermore, under this authority a most beneficial distribution of immigrants will take place, and the Secretary of Labor will be able in a most helpful way to cooperate with the various States in supplying immigrants to develop resources, establish industries, and bring about colonization.

DEFINITION OF IMMIGRANT.

In the definition of an immigrant it has been sought to except only such classes as are nonimmigrants. Therefore, in addition to the classes commonly understood to be nonimmigrants, such as Government officials, transients, and visitors, exception has been made in favor of aliens lawfully admitted to the United States and returning from a temporary visit abroad; bona fide students seeking to enter for the purpose of study at an accredited college; bona fide alien seamen seeking to land in pursuit of their calling; aliens who, having resided continuously for at least five years in foreign contiguous territory, are authorized to enter the United States for the purpose of laboring at a specified occupation for a definite time at a designated place; and aliens habitually crossing and recrossing boundary lines between the United States and foreign contiguous territory upon legitimate pursuits.

Nonimmigrants are not required to obtain an immigration certificate and are not subject to the quota limitations and restrictions.

MAINTENANCE OF EXEMPT STATUS.

To insure that a nonimmigrant will maintain the status under which he was permitted to enter the United States and to guarantee his departure within the time specified, the Secretary of Labor is required to promulgate such rules and regulations as will protect the United States, and he may exact a bond with sufficient surety conditioned that such status will be maintained and that the alien will depart within the time mentioned. Alien seamen are not subject to the provisions of this particular section.

PASSPORTS.

It has been deemed advisable, in view of the provisions for the issuance of an immigration certificate, to dispense with passports or other instruments in the nature of passports issued by foreign governments in so far as immigrants are concerned.

IMMIGRATION CERTIFICATES.

Passports or other instruments in the nature of passports issued by foreign governments not being required of immigrants, therefore a visé is no longer necessary, but a consular officer is authorized to issue an immigration certificate when in his opinion the immigrant is admissible to the United States. The immigrant may ascertain the essential fact of his admissibility in advance, and is not, as under the present law, put to the expense of obtaining a passport and visé when not reasonably assured of admission to the United States. The immigration certificate is very properly substituted for the visé and is based on a more thorough knowledge of the immigrant, and, furthermore, is in keeping with the power of the United States to determine in the first instance who shall and who shall not come to this country as an immigrant. The question whether the immigrant must have a passport before being permitted to leave the homeland is one strictly between him and his government.

The immigration certificate is valid for one year after the date of issue, but it is not a guaranty that the immigrant will be admitted to the United States. Upon its surrender at the port of inspection the immigrant is given a certificate of arrival, which may later be used in naturalization proceedings. A fee of $10 is charged for the issuance of an immigration certificate, because the immigrant is no longer required to pay the visé fee.

APPLICATION FOR IMMIGRATION CERTIFICATE.

The application for an immigration certificate must be in writing and be properly verified. It will be in the form of a questionnaire designed to elicit such information as will enable the American consular officer to determine the admissibility of the applicant. No fee is charged for the issuance or verification of the application.

SPECIAL IMMIGRATION CERTIFICATE.

The special immigration certificate is issued by the consular officer without regard to quota limitations when authorized by the Secretary of Labor. Such authority is granted upon the verified petition of a citizen of the United States after hearing and investigation, and then only in case of the immediate relatives of such citizens, or of farmers and skilled or unskilled laborers, when labor of like kind unemployed can not be found in the United States. The issuance of the certificate is further restricted by the provision with respect to laborers—that it must satisfactorily appear to the Secretary that a strike or lockout does not exist or impend in the particular industry seeking to import such labor. The special immigration certificate is valid for the period therein specified, not exceeding six months from the date of issue, and is to be surrendered upon arrival in the United States in exchange for a certificate of arrival.

No passport is required of the holder of a special immigration certificate, but a fee of $10 is charged therefor.

The Secretary is required to report to Congress at the beginning of each session the number of special immigration certificates that have been issued, so that at all times Congress will be advised in the premises.

DUTIES OF IMMIGRATION OFFICIALS.

Under the provisions of section 23 of the act of February 5, 1917, the Commissioner General of Immigration may, with the approval of the Secretary of Labor, whenever in his judgment such action may be necessary to accomplish the purposes of that act, detail immigration officers for service in foreign countries, and upon his request, approved by the Secretary, the Secretary of the Treasury may likewise detail medical officers of the United States Public Health Service for the performance of duties in foreign countries in connection with the enforcement of the act.

The legislation proposed requires a consular officer to perform certain duties in connection with its enforcement. Assuming that in the very near future immigration and medical officials will be stationed abroad, the duties conferred upon consular officers are to be performed by the immigration officials when detailed to or stationed in foreign countries under the provisions of the act of February 5, 1917, just referred to. This section is made necessary so far as the Dominion of Canada is concerned for the reason that immigration officials are now stationed in that country for the enforcement of our immigration laws.

NATIONALITY AND PERCENTAGE LIMITATION.

Attention is called to that proviso of section 10 dealing with nationality which requires that the nationality of a wife or minor child shall be determined by the country of birth of the husband or parent, as the case may be, if the husband or parent is entitled to an immigration certificate. This provision assigns the nationality to where it properly belongs and will put an end to the hardship and delay resulting from the application of different quota limitations to the members of the same family traveling together.

Subdivision (b) of section 11, in fixing a monthly limit upon the issuance of immigration certificates, provides that in each of the 12 calendar months of any fiscal year no more immigration certificates than one-twelfth of the annual quota shall be issued; and where the annual quota of any nationality is less than 600 the commissioner general, with the approval of the Secretary, is authorized to determine the number to be issued in any one month. This feature of the bill will establish a continuing quota, lessen to some extent the labor of the consular officers, and enable them to devote the time necessary for a careful investigation of each application. When considered in connection with the provision making an immigration certificate valid for one year, it must be obvious that the continuing monthly quota provided for is for the best interest of all concerned—immigrants, steamships, and officers at the ports of arrival.

UNUSED IMMIGRATION CERTIFICATES.

This section provides in substance that an immigration certificate once issued can not be returned or canceled. When issued it is immediately charged against the quota, and that charge stands regardless of the disposition made of the certificate by the immigrant.

EXCLUSION FROM THE UNITED STATES.

It is provided in this section of the proposed legislation that no immigrant shall be admitted to the United States unless he has an unexpired immigration certificate or an unexpired special immigration certificate or was born subsequent to the issuance of such a certificate to the accompanying parent. This provision is made necessary in order to carry out the scheme of selection abroad as herein proposed.

Subdivision (b) of the section under consideration establishes a definite policy and refuses admission to any immigrant who is not eligible to citizenship.

PERMIT TO REENTER THE UNITED STATES.

An alien lawfully admitted to the United States and desiring to make a temporary visit abroad may upon proper application obtain a permit which will entitle him upon his return to be admitted to the United States regardless of quota limitations or restrictions. When in possession of such a permit the alien is classed as a nonimmigrant and is not required to obtain an immigration certificate. The permit is valuable from an administrative standpoint because it is documentary evidence of the claim that alien is returing from a temporary stay abroad, and to that extent will lessen fraud and perjury.

It has been deemed proper to charge a fee of $5 for the issuance of the permit.

SUSPENSION OF IMMIGRATION.

The necessity for this section becomes apparent when it is recalled that but a short time ago millions of men were without employment in the United States, and that, notwithstanding the situation which then existed, thousands of immigrants were permitted to land upon our shores and join the great army of idle workers. In the light of that experience it is submitted that some provision should be made for the suspension of immigration during periods of widespread industrial depression.

CERTIFICATES OF ARRIVAL.

Every immigrant, upon his admission to the United States, is given a certificate of arrival, and this certificate may be subsequently used in naturalization proceedings.

Number of aliens who would be admissible annually on basis of 2 per cent of the population, according to United States census of 1890, 1900, and 1910.

Country or region of birth.	Annual quota on basis of 2 per cent of—		
	1890 census.	1900 census.	1910 census.
Albania	4	21	192
Armenia (Russian)	17	41	152
Austria	990	1,791	4,894
Belgium	509	649	1,042
Bulgaria			202
Czechoslovakia	2,873	3,431	11,372
Danzig, Free City of	223	214	200
Denmark	2,782	3,198	3,746
Esthonia	102	237	898
Finland	145	1,265	2,614
Fiume, Free State of	10	17	48
France	3,878	3,634	3,820
Germany	50,129	47,981	45,072
Great Britain, North Ireland, Irish Free State	62,458	55,724	51,562
Greece	35	159	2,042
Hungary (including Sopron District)	488	1,132	3,832
Iceland	36	42	50
Italy	3,889	10,115	28,038
Latvia	117	271	1,023
Lithuania (including Memel region and part of Pinsk region)	302	555	1,752
Luxemburg	58	61	62
Netherlands	1,637	1,900	2,404
Norway	6,453	6,757	8,134
Poland (including Eastern Galicia and part of Pinsk region)	8,872	16,177	20,652
Portugal (including Azores and Madeira Islands)	474	916	1,644
Rumania	631	1,412	4,946
Russia (European and Asiatic, excluding the Barred Zone)	1,792	4,496	16,270
Spain (including Canary Islands)	124	145	608
Sweden	9,561	11,672	13,362
Switzerland	2,081	2,314	2,502
Yugoslavia	735	1,404	4,284
Other Europe (including Andorra, Gibraltar, Liechtenstein, Malta, Monaco, and San Marino)	125	45	58
Palestine	1	4	38
Syria	12	67	588
Turkey (European and Asiatic, including Thrace, Imbros, Tenedos, and area north of 1921 Turko-Syrian boundary)	23	118	1,770
Other Asia (including Cyprus, Hedjaz, Iraq (Mesopotamia), Persia, Rhodes with Dodekanesia and Castellorizzo, and any other Asiatic territory not included in the barred zone. Persons born in Asiatic Russia are included in Russia quota)	45	239	62
Africa (other than Egypt)	38	43	70
Egypt	6	8	12
Atlantic Islands (other than Azores, Canary Islands, Madeira Islands, and islands adjacent to the American continents)	41	46	80
Australia	120	140	196
New Zealand and Pacific Islands	67	52	54
Canada and Newfoundland	19,619	23,598	24,194
Cuba	465	222	303
Other West Indies		287	650
Mexico	1,557	2,068	4,438
Central America	24	78	35
South America	100	95	165
Total	182,648	204,841	270,135

BANKING SITUATION IN NEW MEXICO.

By Mr. BURSUM:

A bill (S. 2386) for the purpose of stabilizing banks and trust companies, restoring public confidence within communities or States where such confidence has become impaired, directing the War Finance Corporation to pay over to the Comptroller of the Currency $50,000,000 to be used by the comptroller in aid of such purpose, and for other purposes.

Mr. BURSUM. Mr. President, I ask unanimous consent to make a brief statement relating to the bill at this time.

The PRESIDENT pro tempore. Is there objection? The Chair hears none, and the Senator from New Mexico will proceed.

Mr. BURSUM. Mr. President, my reason for introducing this bill is the fact that there seems to be great need for immediate relief to recapture the confidence of the public in our banking institutions. In the State of New Mexico the distress has been quite general. I have received a telegram from one of the principal bankers in my State regarding the situation as of January 3, which reads in part as follows:

During 1923 there were 19 bank failures, with liabilities of $8,000,000. During January this year there have been 14 bank failures, with liabilities of $9,000,000, which affects 35,000 depositors in the State of New Mexico. During 1923 the banks of the State show a loss in deposits of $9,000,000, and show a decrease of $10,000,000 in loans, and in addition to this have paid to the War Finance nearly $3,000,000. They also reduced their borrowings over $600,000.

So that the people of the State have liquidated the net sum of $13,000,000 during the year 1923. Yet, in spite of those liquidations, in spite of the fact that a gain has been made by the banks, to-day we have more than 40 banks in the hands of receivers and unable to do business.

It is stated in this telegram that something must be done immediately to restore confidence. To restore confidence requires, in my opinion, some action which will be immediate and effective and heroic.

Some say that these matters ought to have been taken care of by the Federal reserve. I am not here to file any complaints about the management of the Federal reserve. It may be possible that the paper held by the banks may not be of an eligible character, or there may be some other technical reason why the relief can not be extended, but I have a statement of the Federal reserve bank of that district for the year 1923, which is quite interesting.

Mr. DIAL. Mr. President, will the Senator yield for a question?

Mr. BURSUM. I yield.

Mr. DIAL. Will the Senator tell us whether those were State banks or national banks?

Mr. BURSUM. Both national banks and State banks.

Mr. DIAL. What number of each?

Mr. BURSUM. I have not a statement of the exact number, but I will say that the larger number of them are national banks.

Mr. DIAL. About what was the average capital?

Mr. BURSUM. The total resources involved are $18,000,000. I have not a detailed list of the banks, or a statement of the capital of each bank.

I read a statement relative to the Federal reserve bank for the eleventh district as published in the Albuquerque Herald. It is as follows:

This report says that the reserve bank has reduced the amount of its loans to member banks in the district 42.5 per cent in the last year. In the words of the report itself, "At the close of business on December 31, 1923, there were 98 banks owing the Federal reserve bank, and their aggregate borrowings were only $8,872,087.37, the lowest point reached since February, 1918. On December 31, 1922, 177 banks were owing us $14,422,329.67, while on the corresponding date of 1921, 536 banks were owing us $50,597,098.40. These comparative figures show the extent to which the banks of this district have improved their position during the past two years."

The total bills held by this bank increased from $57,796,745.99 on November 30 to $58,310,493.73 on December 31, distributed as follows:

Member banks' collateral notes secured by United States Government obligations	$524,000.00
Rediscounts and all other loans to member banks	8,348,087.37
Open market purchases (bankers' acceptances)	49,438,406.36
Total bills held	58,310,493.73

In other words, the Federal reserve bank bought in the open market $49,438,000 worth of securities and has only loaned within that district $8,000,000. Our banks are tottering and being closed every day. That is the situation. It is evident that there is something lacking, or else we would not have this widespread absence of confidence.

Mr. GLASS. Mr. President, will the Senator permit an interruption?

Mr. BURSUM. Certainly.

Mr. GLASS. Does the Senator mean to imply that the Federal reserve bank in that particular region is withholding rediscounts from any individual bank which may present eligible paper for security?

Mr. BURSUM. I am implying nothing. I am simply stating the facts and the conditions as they exist. I know as to the amount of the resources, and we know what is happening to the banks.

Mr. GLASS. The Senator may state the simple facts with an emphasis that would seem to imply that there has been some dereliction or discrimination on the part of the Federal reserve bank. Now, if the Senator has any evidence of his apparent assumption that the Federal reserve bank has refused to rediscount eligible paper presented by any member bank, that is a different proposition.

Mr. BURSUM. I will say to the Senator that I have had some complaints, but I have not gone into a detailed investigation. I would not like to make any definite statement as to dereliction without the proof, but I am stating a condition that exists and which in my opinion requires some emergency relief other than the present legislation that we have.

Mr. GLASS. Even if the condition is as stated by the Senator, would the Senator advocate loans by Federal reserve banks to member banks without adequate security?

Mr. BURSUM. I am not advocating any change in the law relating to Federal reserve banks. I would not change it. I am advocating an emergency measure which is calculated to meet the situation and which would have no relation to the laws relating to the Federal reserve system, but the purpose of which is to recapture the confidence of the country. Even though we may have within our country one-half of the total supply of gold in the world, that in itself is no protection unless we can have the continued confidence of the public.

The distressed condition of the banking situation throughout the country is not localized to New Mexico, but covers a considerable area. Similar conditions may be found in the States of Idaho, Montana, South Dakota, North Dakota, Minnesota, and parts of Iowa. I have in my hand a list showing something over 100 national banks, representing an aggregate of resources amounting to more than $75,000,000, which are now closed. These banks are situated in many of the States of the Union and cover a large area of the country. Some of them are in Kansas and some in Montana. I think there is one in the State of Virginia, if I recollect correctly.

So it is evident that there is a widespread lack of confidence in the banks. If we can restore this confidence we should do so. There is just as much money in the country as there ever was, but when people become suspicious of the integrity of the banking institutions of the country deposits are withheld, runs are made, one run starts another, one failure brings about another failure, and the situation becomes epidemic all over the land.

Mr. President, the measure I have introduced is one of very great importance. It is an emergency matter. I sincerely hope that the Committee on Banking and Currency will hold hearings and investigate the merits of the bill as promptly as possible so that if it is found to meet adequately the situation we may be enabled to obtain prompt action.

The PRESIDENT pro tempore. The bill will be referred to the Committee on Banking and Currency.

AMENDMENT TO ANTIFIREARMS BILL.

Mr. WARREN. Mr. President, I present a proposed amendment to the antifirearms bill (S. 1591) introduced by the distinguished Senator from Tennessee [Mr. SHIELDS], and request that it be referred to the Committee on the Judiciary.

The PRESIDENT pro tempore. The proposed amendment will be referred to the Committee on the Judiciary.

Mr. WARREN. For consideration in connection with the bill and proposed amendment, I offer the accompanying paper, being a clipping from a service magazine published here in Washington, the Army and Navy Register, edition of January 5, 1924, which contains some unusually good information concerning the proposed suppression of the sale of firearms, and I ask unanimous consent that the paper presented be printed in the RECORD for the careful perusal of Senators and others, and that it also be referred to the Committee on the Judiciary.

There being no objection, the matter referred to was referred to the Committee on the Judiciary and ordered to be printed in the RECORD, as follows:

ANTIFIREARMS LEGISLATION.

[By Capt. E. C. Crossman in the December issue of Field and Stream. Captain Crossman was during the World War a captain of Infantry. He has gained high reputation as an expert rifleman. Added to this, Captain Crossman is one of the most extensive and authoritative writers on firearms and their construction and uses. Anything which comes from such a source on the subject of his contribution in Field and Stream is informing and important.]

Not so very long ago a convention of representatives of international police forces made solemn statement that firearms were used in 90 per cent of the crimes of violence of the present day.

The conclusion seems fairly obvious. The person seeking to impose his will on another by dint of frightening him or planning to take the life of another will naturally turn to the most effective lethal weapon available. It should be equally obvious to anybody but a reformer that the best method of equalizing the inequalities of brute strength and savage will against lesser strength and peaceful disposition is also a lethal weapon. The thug with sandbag, lead pipe, or knife could worry along quite comfortably if all the firearms in the world were taken to sea and sunk a hundred fathoms deep. In fact, he could get along more comfortably than at present, because there would be no prospect of some recalcitrant victim lugging out a pistol and shooting the holdup man full of neat, round holes.

The question before the American public seems to be whether the total disarmament of the law-abiding citizens—and the to-be-doubted removal of one sort of lethal weapon from the hands of the criminal—would be advantageous.

While it should be obvious that antifirearms laws appeal as highly humorous to the average criminal, yet, granting for the sake of argument that such laws would remove firearms from the hands of the crook, then there remains the question as to whether stoppage of the sale of the tools of crime stops crime itself.

The bright and shining example so oft quoted by the pistol reformer is the right little, tight little isle of England. The argument runs thusly: England has a very low crime rate. England has restrictive firearms laws. Ergo restrictive firearms laws are responsible for England's low crime rate.

To the person somewhat trained in the laws of logic there would appear several links missing in the chain of cause and effect.

England also has a high liquor consumption—which, incidentally, was overlooked by the prohibition gentlemen in their many arguments against the sale of liquor. Possibly the soothing effect of John Barleycorn is back of the low crime rate.

England has much fog in certain sections where crime would be most looked for. Possibly the fog has something to do with the crime rate.

It is just barely possible that the reprehensive habit of British courts to punish lesser crime as it deserves, and to hang murderers regardless of pull, petitions, or position, may enter into the computation.

It may be that a small and sea-encircled country, thoroughly policed, with a small alien population and naturally law-abiding temperament of the bulk of the people, has something to do with the matter. The fact that every block in a city does not present convenient motor cars for the yegg to steal as an accessory before the fact is worth considering.

It does seem to me, in spite of my familiarity with firearms and my liking for them, that if nothing could satisfy my yearnings but a nice bloody murder or two, I could make shift with what other lethal appliances were available and totally snub the makers of firearms.

The latest and most talked about British murder, in which both the male and the female concerned were relentlessly but properly hanged by the neck, was accomplished by nothing more than one can easily purchase in a drug store.

It is a noteworthy fact for the illogically minded man that the stoppage of the sale of the tools of crime automatically stops crime then and there. Nitroglycerin, better known as "soup" in certain walks of life, can not easily be obtained from the corner drug store. Ergo we do not have any safe blowing in this country.

That handy tool known as a jimmy is obtainable in no hardware store. Ergo we have no burglaries.

Slung-shots are frowned upon in most communities. Ergo no citizen ever gets "beaned" while progressing along the highway and then robbed while in a state of helplessness.

We have strict laws against murder, burglary, the sale of narcotics, and the manufacture and sale of alcohol, with the quite obvious result that none of these things are ever done.

The fact that some of our laws are a laughing stock is no argument against such laws where they do not work an injustice against the law-abiding citizen. Antipistol laws do not come under this head, because, while they would be observed with the same enthusiasm with which the liquor laws are now observed by the bootlegger, when the criminal found it convenient to own and use a pistol, on the other hand, they would be observed by the law-abiding and peaceful citizen. The net result would be that the crook would be afforded a reasonable guaranty

that the lone citizen on the highway at night was helpless and that the house he purposed to burglarize would be without the one means of defense he most dreads because of its noise and range.

Most reformers are extremists, and unhappily most of them are largely uninformed concerning the matter which they propose to reform. None of them are amenable to reason, else they'd not be reformers.

The antipistol reformer is a case in point.

For proof, witness the lack of crimes of violence in the State of New York where the worst pistol law of any State of the Union has been in force for many years. It makes the mere possession of a pistol, reposing peacefully in the dresser drawer, a felony. The peaceful man goes without one; the yegg buys from a bootlegger of pistols, whose assortment is large.

The Sullivan law is heartily approved by every crook in the State who goes blithely forth to separate the lone traveler from his valuables or crawls, humming merrily to himself, into my lady's chamber to remove her jewels to a place of safe-keeping behind a "fence."

If some act of legerdemain on a large scale could forthwith pluck from the pocket of every yegg in the country and of every law-abiding citizen every revolver and pistol in existence in these United States, and no more were available, our crimes of violence would not decrease 1 per cent. Still they would surprise us in numbers by superior strength and the use of knife, club, or lead pipe, and bend the helpless citizen to the will of the criminal. The difference would be that there never could take place that beautifully deterring occasional instance of the attacked citizen producing a gun and just naturally shooting the thug into the pearly gates—or gates of other variety, as the case might turn out.

At one time in the crimeless history of Chicago there took place a veritable epidemic of strong-arm attacks, in which the thug slipped up behind the victim, threw an arm about his neck, and throttled him into a condition of utter helplessness—or death, as sometimes happened. Every night saw a half dozen instances of how the criminal needs pistols in his chosen profession—only in these cases the only arm was the strong arm, not a firearm.

Unhappily one evening an elderly citizen, accompanied by his daughter, was "strong armed" under the elevator near Van Buren Street, but instead of peacefully choking to death or close to it, this miscreant produced a pistol, pointed it back over his shoulder, and rearranged the countenance of the thug in a manner distressing to behold.

Immediately thereafter the strong arms took a long vacation, or else sought other fields of activity, because for months there was not reported one case of this garrotting of helpless citizens.

Always has this been true, that when a citizen unreasonably refused to play the part of a sheep and turned out to be a rampaging billy goat, with resultant damage to the thug, the crime wave in that community hastily petered out and the overworked police force was not pestered by the complaints of robbed citizens who demanded to know where in Tophet or elsewhere all the policemen kept themselves while this stuff was going on.

The police are enthusiastically in favor of the abolition of the sale of firearms to citizens. It has been noted that a common fault of police the world over was a tendency to worry less about the welfare of the citizen than about the policeman. While the policeman is quite willing to admit that he can not be everywhere, and that about 99 per cent of the crimes of violence never see a policeman until the fuss is over, and while he is equally willing for the citizen to be disarmed and subject to the will of the thug, he emits wild yells of agony at the idea of his being disarmed to take the same chances with the thug. And statistics show that the thug does far more business with the peaceful citizen than he does with the police.

If the police gentlemen could, as they hope most vainly, remove all of the firearms from both citizens and thugs, they would be perfectly willing to let the citizen continue to be slugged and clubbed and choked and stabbed and manhandled in general in the large proportion of those crimes in which pistols are never used anyhow, because when they came to make their occasional arrests of the criminal he wouldn't have a gun and the policeman would. The situation would thus come under the generic head of "duck soup" for the policeman.

It has long been noted that the yegg is a far more deadly shot than the policeman. The average officer can not hit a man across a 30-foot street with a pistol; and what is more, he will not spend his time and his money trying to learn. Most municipalities in very short-sighted fashion require the officer to practice both on his own time and at his own expense. The answer is easy.

For two years I shot with a revolver club on a police pistol range, used by those few policemen who had some curiosity as to whether their pistols would go off if the trigger were pulled. I repeatedly saw officers who could not hit a steel plate 6 feet high and much wider than a man at 30 yards, under the easy conditions of no danger and plenty of time to aim and plenty of daylight to see the sights.

The penalty for failing to "get" a yegg in a running gun fight is nothing but a little "kidding" and possibly a little reprimand by his superiors and a little personal disappointment for the policeman, because, as a rule, if the policeman quits running and shooting, the yegg is only too willing to follow suit as regards the shooting part of the situation.

On the other hand, the penalty for the yegg is never less than imprisonment, likely a brutal beating, the third degree, and very likely death or wounding, because excited policemen have been known to keep right on shooting after the yegg has quit and surrendered, which is not such a bad idea if the situation leaves no doubt as to the guilt of the gunman.

Which of the two is most likely to shoot to kill and to learn how to shoot before engaging in his "profession"?

A little thought along these lines may explain the frenzied anxiety of policemen in general to disarm the citizens if thereby they can also disarm the thug and so equalize the somewhat lop-sided battle between desperate and straight-shooting thug and poor-shooting policeman.

The police have always labored under the delusion that the life of the policeman was more sacred than the life of the helpless citizen who hires him. That any means by which police security could be increased should be adopted regardless of the effect on the citizens in general. That any killing of a policeman in due line of duty should be followed up and avenged with relentless severity and any necessary expenditure of the public funds, where a killing of a disarmed and helpless citizen was taken as quite a routine matter.

Why?

Policemen are not very well paid, but what they are paid includes the risk of being shot in the performance of their duty. It likewise entails the officer making himself proficient in his work, which includes accurate shooting to protect himself and the citizens under his care. When his poor marksmanship makes him a victim for the bullets of a better prepared criminal, he has himself to thank in part.

Obviously the killing of an officer should be rewarded by the gallows for the killer if any reasonable endeavor can run down and bring to justice the criminal, but I fail to see the reason for the hysteria displayed by a police force when one of their members gets what a citizenry is getting every day of the month in the big cities.

Likewise do I fail to see why a few million law-abiding citizens, ill-protected and often entirely unprotected by the police, should be disarmed in the vain hope that the same laws would also disarm some small proportion of the crooks, and so reduce the risks attendant to the profession of the policeman.

No person capable of using his reasoning powers needs to be reminded that restriction of the sale of firearms would never reduce those crimes committed by hitherto ordinary people—the murders and the suicides and the assaults.

The man raised to the pitch of murder would no more balk at his intent because he could not procure a firearm than did the British couple who poisoned the husband of the woman in the case. The most notorious murder in California in recent years was done by nothing more than a cheap 25-cent hammer, bought for that purpose by a "weak woman," although guns were available in every store and pawnshop.

If a mere woman would select such a weapon with which to commit a murder, why, then, think that a stronger man, worked up to the frenzy that is necessary for murder, would be for an instant deterred by the fact that he could not buy a pistol?

The next most stirring murder in the annals of the somewhat crime-ridden Golden State was done with a double-barrel shotgun and buckshot. Can any pistol law remove from circulation the millions of sporting firearms we have with us? Had the gun not been available, a tap with a lead pipe would have done the work just as neatly and more quietly.

The slaying of a noted clubman—incidentally a bootlegger—in Los Angeles within six months was done with a shotgun and bird shot. Would pistol laws have stopped this crime?

The only effect antipistol laws could have would be as to those semi-occasional crimes of instant impulse—the quarrel and the shooting without premeditation. This is a somewhat rare type of killing, and when it does take place the killer would be quite capable of using a knife, a chair, or any other potential lethal object with which to vent his murderous frenzy. This is clearly shown by the means used in such murders, in which frearms play a comparatively small part. And whether the killings in which firearms were used would not have taken place in their absence remains to be denied.

We are flooded by antipistol bills, National and State, most of them idiotic, most of them promulgated either by police heads or by that type of reformer with a totally monorail mind. As usual, this reformer person displays the most blatant ignorance pertaining to his subject and evolves from the depths of his consciousness the most outrageous misstatements which he solemnly parades as facts.

The end ostensibly sought by most of these bills is the total pistol disarmament of the entire people, including the criminals, of whom, according to the police estimates, we have some 2,000,000 in this country alone.

The end which would follow this asinine attempt at legislation would be that the honest man would be disarmed, the police could cinch a bit easier the habitual criminal found with a gun, and the same criminal would put up a more desperate fight and shoot on slighter provocation through the knowledge that the mere possession of a gun would put him into the penitentiary. An alibi would avail him not at all were the gun found on him—or "planted" on him, as is done by some officers of an old and nearly extinct school of thought which manufactured the evidence if none were to be had.

It should be obvious that a pistol is a fairly substantial piece of hardware, which wears out with much slowness. It does not become a candidate for the junk shop in a few years, like the motor car; is easily concealed and easily preserved from destroying influences.

There are several million pistols in circulation in these United States. If our reformers know of any process of law, physics, or chemistry which will forthwith cause these few million substantial pieces of steel to disappear into thin air when antipistol laws are passed, then and only then would antipistol sale laws be worth the paper on which they are written.

Because it is a fact, economically speaking, that those persons willing to pay the highest price for objects, whether they be stamps, cases of "genuine Scotch," or pistols, automatically wind up in possession of them.

The yegg knows quite well that the pistol is a desirable, not to say necessary, article of his equipment. The honest man considers it much along the lines of an insurance policy—and insurance policies have been known to lapse. Pass a law making the mere possession of the few million pistols a crime—and who finally gets them?

Anybody can answer this who is over 6 years old, not a halfwit, and not a reformer.

Never was there a time, with the motor car affording a brand-new, easy, and encouraging avenue of escape for the criminal after the crime, when disarmament of honest men was less advisable, and yet hysterical reformers seek to discourage these increasing crimes of violence by passing one more law for the lawless crook to break.

Does anybody think that a law making possession of a pistol a felony would deter the professional criminal who is planning to break the laws concerning burglary, highway robbery, safe blowing—and those concerning murder into the bargain if necessary in the getaway? Yes, Rollo; our reform gentlemen think so, which is sufficient comment as to their mentality.

Who observe laws—honest men or criminals? Who, then, would be deprived of pistols and means of self-defense against increasing crimes of violence—honest men? Logic would answer yes.

Some feather wit introduced into Congress in the past session a bill to tax every revolver or pistol $100 and every cartridge sold in this country just $1 each. This is typical of the breed.

No yegg would object to paying $6 for six cartridges to fill his gun, because it is business with him and used pretty largely for the purpose of intimidation, anyhow. And if the matter resolved itself into a fight with the police a dollar apiece for cartridges would be little enough, in view of the cost of being shot or arrested as a result of the fight.

A good national pistol law, which we urgently need, both to aid in controlling the situation and to put a stop to the half-witted and frenzied attempts along this line, has just been passed by the State of California.

Briefly, what is needed is legislation to encourage the reputable citizen to own pistols and discourage the other kind from such ownership. The successful outcome of the encounter of the armed citizen with the yegg has a deterring influence on crimes of violence not to be gained by a dozen arrests by the police and the low average convictions obtained.

The happy concomitants of a well-placed pistol bullet are that the yegg can make no appeal, can get out on no bail, can delay trial on no pretense, can establish no alibi, can bribe no jailer to permit him to escape, can serve no short sentence. He is "it" then and there. His sentence is the one word "finis."

And beautiful is the effect on his comrades in arms.

ADDRESS OF NICHOLAS MURRAY BUTLER.

Mr. BROUSSARD. Mr. President, I ask unanimous consent to have printed in the RECORD an address by Dr. Nicholas Murray Butler delivered before the Round Table Club at St. Louis.

The PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

The address is as follows:

THE FAITH OF A LIBERAL.

(An address delivered by Nicholas Murray Butler before the Round Table Club, St. Louis, Mo., November 9, 1923.)

Speaking within these walls just 12 years ago I asked the question: Why should we change our form of government? and offered an answer. At that time it was my endeavor to give reasons why certain pending proposals for change in our fundamental law and in our political and social organization should not be accepted by the American people. My appeal then was that we should, not change our form of government, but develop it, perfect it, and apply its well-tested principles to the solution of new problems. Very much has happened in the intervening years. The ebb and flow of a tide of economic and political unrest has left its mark on the history of every nation. A great war, participated in by substantially the whole world, has shaken civilization to its foundations and has swept away the accumulations of many generations. Currency systems, once thought as stable as the Rock of Gibraltar, have been completely wiped out, and the trade of the world has been disrupted and disorganized to an extent that was quite unbelievable 12 years ago. The purchasing power of 300,000,000 of human beings has been either destroyed or so severely limited as to bring distress, suffering, and unemployment to capital and to wageworkers alike in lands as distant as Great Britain and Chile, and to deprive the American farmer, the American cotton grower, the American copper miner, and the American manufacturer of that part of his market on which good prices depend. Governments have been altered beyond recognition. In Russia the autocracy of a historic Czar has been displaced for the still more cruel, still more ruthless, and still more destructive autocracy of a small group of fanatics who, for the moment, are clever enough and skillful enough to hold unhappy millions in economic and political bondage. The pomp and the glory of the proud Empires of Austria-Hungary and of Germany have passed into history, and the Hapsburgs and the Hohenzollerns have gone the way of the Stuarts and the Bourbons. Even the forces of nature, as if envious of the destructive powers of man, have shaken great cities and ruined them with fire and with flood. In the face of such a picture, which even the savage realism of Gustave Doré could not adequately portray, what is to be said for the faith of a convinced and lifelong liberal and for the principles which have seemed to him a sure guide for humanity's progress?

When Lord Morley died a few weeks ago, Mr. Asquith said in his well-measured English: "This means the disappearance of the last survivor of the heroic age." Truly Lord Morley took with him beyond the shadows an almost unexampled service to liberalism and an almost unrivaled consistency in its support. Of all English-speaking liberals of his generation Lord Morley was no doubt the chief. No one had so often and in so many ways, in act as well as in word, given expression to the spirit of liberalism. Gladstone had grown into liberalism at middle life, and Harcourt was without the many-sided contacts both with men and with thought that Morley enjoyed for half a century. Morley was a born liberal. This noble figure, so powerful with the pen, so eager in pursuit of truth and so serene in its contemplation, seemed a nature apart even from that busy world where he rode the troubled waters in a ship whose passengers were the governors of millions of men. I can see him now on a summer night in 1911 as he stood in his place in the House of Lords, at the height of the exciting debate on the Parliament bill whose passage was to destroy forever the legislative powers of the peers of England, quietly reading the announcement on behalf of the Government that, if necessary, enough new peers would be created to ensure the passage into law of the pending measure.

It was a decisive moment in the constitutional history of England, and it was a great moment in the life of a liberal who hated privilege in the government of men and who warred against it with all the powers of his being. Why should it be possible to say that such a man is the last survivor of a heroic age? Where are his associates, his companions, his pupils? Where are the younger torchbearers who are now to run the race and keep the flame alight? It must sadly be admitted that they are hard to find, and that when found they are without the power and the faith of their elders. After generations of authority and conquest, after making over the world of men and of ideas, it is a sorrowful confession that at the moment liberalism is in eclipse which is visible, either as partial or total, over pretty much the whole surface of the earth. So much is this the case that strangers to its spirit and enemies of its policies are struggling for its name as an instrument with which to weave a garment to cover their nakedness. There are those who by striving to lay hands on the name liberal and to apply it to illiberal and antiliberal doctrines of every sort have already brought it into contempt, so that the followers of the great liberals in the history of English-speaking peoples are confused and ashamed.

The American spirit has been liberal from the outset. It was not tories but liberals who crowded the deck of the *Mayflower* and who made their home upon the stern and rock-bound coast. It was not tories but liberals who pushed westward along the watercourses and over the mountain ranges to the rich lands and prairies of the Mississippi Valley to make it one of the gardens and granaries of the world. It was not tories but liberals who met in the Continental Congress, in the convention at Philadelphia and on the floor of those earlier Congresses when our Nation's policies were in the making. It was not tories but liberals who rallied about Abraham Lincoln, and who at every sacrifice saved the Union and made all its people

free. It was not tories but liberals who heard the call of anguished liberty from beyond the seas when the well-trained hosts of the most militaristic of empires had their swords at her throat. Why, then, is the heroic age at an end, and why is liberalism in eclipse?

Many men have many answers. Liberalism as a powerful force and as the name for a political party is certainly not a ruling power in Great Britain, although those who govern England have adopted many principles and policies that were once characteristic of liberalism. Liberalism in Germany, so strong and so full of hope in the first half of the nineteenth century, disappeared entirely before that century's close. Liberalism in France is from some points of view strong, but it is often so diluted and so mixed with other elements as to be almost unrecognizable. In the countries of southern Europe, as in the northern countries of that continent, liberalism exists only by fits and starts. Ruling opinion there is either frankly conservative and antiliberal, or it is based on that collectivism which is liberalism's most active and unrelenting foe. Nothing is more pathetic than the spectacle of the collectivist endeavoring to seize for himself the name liberal. He is the reactionary of reactionaries, while the liberal is consistently progressive and a builder. In the eyes of the liberal, liberty is as Lord Acton described it, an end in itself, the highest political end, and not merely a means to some other end. He who would use liberty for some other purpose than itself, he who would subordinate liberty to any other aim or end, is not a liberal.

To begin with, liberalism is rather a temper, an attitude, a state of mind than a fixed and definite creed. It looks backward in order to learn whence man has come and what his experience has been. It looks forward in order to guide man's next steps in a spirit of liberty and in the light of experience. In political affairs it is as Gladstone once said it was, trust in the people, tempered by prudence, while conservatism is distrust of the people, tempered by fear.

The historic basis on which liberalism rests finds expression in the first 10 amendments to the Constitution of the United States, which defined with sufficient clearness and precision that field of civil liberty into which the government of limited and designated powers may not enter. Although it is well-nigh a century and a half since the declaration contained in these amendments was formulated, nothing has happened to weaken its force or successfully to challenge its righteousness. Unhappily, there have been and are illiberal invasions of the field of civil liberty so marked out, sometimes under the form of law itself, but while these have roused the liberal's ire they have not shaken his faith. Despite the provisions of the first amendment, he sees those who would freely exercise the religion of their choice hunted and hounded by hooded mobs, and those who would only exercise their right to freedom of speech persecuted and humiliated, while the Nation looks on with an indifference which is tempered sometimes with amusement and sometimes with contempt. In defiance of the provisions of the fourth amendment, he sees people who should be secure in their persons, houses, papers, and effects subjected to unreasonable searches and seizures at the behest of some demagogue or fanatic or group of such. He sees the provisions of the fifth amendment as to double jeopardy for the same offense and as to the protection afforded life, liberty, and property by due process of law, whittled away to something that approaches nothingness by specious and unconvincing legal reasoning. What wonder is it that when he comes face to face with all this the liberal feels that for the time being, at least, his faith is in eclipse?

It is certain that while the doctrine laissez faire has much to commend it and rests upon a foundation that is essentially sound, the liberal can no longer hold or practice it in its more extreme and dogmatic forms. The economic and social changes of the past century, to say nothing of the revolution that has taken place in philosophical and religious thought, have brought it to pass that the older and simpler forms of laissez faire are quite inadequate to present social and political needs, or to the protection of that liberty which the true liberal asks for others as well as for himself. The liberal can not admit the right of one man, however powerful, to govern any other man, much less to hold him in legal or economic bondage. He does, however, accept the doctrine that the joint and common affairs, interests and business of groups, both large and small, may, and indeed must, be managed in the general interest by representatives chosen for that purpose. The liberal would, however, entrust these representatives only with limited and designated powers, and he would be jealous of any attempt on their part to overpass the limitations so imposed. In case of doubt the liberal would always prefer the field of liberty to that of government, and he would withhold from government each and every power and function which can possibly be performed to the general advantage in the field of liberty.

In the economic life of to-day the liberal sees a challenge and an invitation to the human powers of cooperation and of generous rivalry without the cruelty and ruthlessness of uncontrolled competition for material ends alone. This is the basis of the liberal's acceptance of the principle of collective bargaining and of organization for cooperation both on the part of wageworkers and of employers. In each case, however, it is the ultimate public interest and not the immediate group interest which the liberal sees as the goal of an undertaking, and by this support he judges it. He realizes that health, housing, and education are three elements of public satisfaction which the representatives of all are justified in attempting to secure in the interest of all. The liberal does not regard concern through government for the public health, for the housing of the people, or for the education of their children as either a collectivist or even a socialist policy. He regards these as pressing problems of general concern, the solution of which may well be attempted with the active cooperation of agencies of government.

The liberal resists appeals to force in dealing with relations between men, and urges always the appeal to reason. He is appalled at the widely prevalent opinion that the way to combat an evil or to check an abuse is to amend the Constitution or to enact a statute about it, for he knows full well that in nine cases out of ten, yes, in ninety-nine cases out of a hundred, the evil and the abuse will yield, not to force, not even to the force of law, but only to the slower yet more radical and complete cure of intellectual and moral education. The widespread cry for law enforcement, even when it is not mere hypocrisy, leaves the liberal quite cold. He knows that few if any laws can really be fairly and universally enforced, and that the true goal is not law enforcement but obedience to law. It is the spirit of obedience to law because it is the law, of acceptance of law so long as it is the law, combined, if you please, with a fair and open effort to change obnoxious laws that is the liberal's aim. He well knows in how few cases the rule of force will break or shackle the wills of cunning men, and how much more effective it is to persuade and to educate than to threaten.

The liberal is of necessity a progressive and can not possibly be a reactionary, for the powers and satisfactions of liberty constantly move forward and never stand still. The liberal knows the difference between true progress and those reactionary policies and purposes which so often steal the name of that progress which they so vigorously combat. The liberal knows that it is not progressive but reactionary to fix prices by law or to put Government-made chains and shackles upon commerce and industry; all this has been tried for 500 years and has always failed. The liberal knows that it is not progressive but reactionary to attempt to control and make uniform by law the personal habits and conduct of men; this, too, has been tried in a most extreme fashion from time to time for generations and has always failed. The liberal knows that it is not progressive but reactionary to relieve by law any group of citizens or any single citizen from their proper share of responsibility for meeting the cost of government, as for its conduct; for he knows that when one group meets the cost of government and another group formulates its policies, democracy and liberalism alike will have come to an end. The liberal abhors the constant success with legislatures and with executives of those well organized and well financed lobbies which are now euphemistically described as pressure groups; for he knows that each and every one of these represents and urges not the public interest but a special interest or a privileged interest. The liberal is ashamed of the constantly recurring evidence of cowardice on the part of men in public office, who would hold their place by subordinating their convictions to the prejudices of those about them rather than stand up for principle, perhaps at the cost of position and power temporarily at least. The liberal resists the building up of a still more huge bureaucracy at Washington, with its agents, inspectors, and spies, spread out all over the land at enormous cost, to invade and to subtract from what should be the province and responsibility of local government among a free people. The liberal knows that there is a democratic imperialism as well as a monarchical imperialism, and he resists the one as vigorously as his ancestors resisted the other. The liberal prefers fitness to notoriety as a standard and test of availability for public office, and he resents the implied insult to the American people on the part of those political showmen who, without principle, knowledge or sincere concern for the public interest, constantly solicit the suffrages of the people. The liberal is alarmed at the mounting burden of public indebtedness, by means of which the extravagance and the thoughtlessness of to-day put a crushing load upon the productive industry of to-morrow. He knows that these huge debts must one day be paid or repudiated, and he can foresee the damage to follow upon either event. The liberal would meet the widespread pessimism as to the work of democratic institutions by pointing to the historic failure of every other form of government, by preaching that form of education and enlightenment which not only gives information but builds character, and by constantly appealing to the best in men and not to the worst, to their ideals and their hopes, not to their passions and their prejudices.

The liberal hates war with his whole soul. His reading of modern history shows him how many have been the unnecessary wars, with all their appalling loss and destruction due to the ambition, the greed and the cruelty of men. The liberal is not a pacifist in the sense that he would never make stand for a great principle or for the defense of all that man holds most dear, but he is a pacifist in the sense that he would exhaust every possible measure of settlement before permitting an appeal to arms, and would labor unceasingly to turn men's minds toward those reasonable methods of settling differences between men

and nations that have been urged by prophets and seers for generations. He would labor in season and out of season to make some progress toward the goal which, when reached, will bring untold blessings upon men and nations.

Not a few liberals are discouraged, and what wonder! They see their faith flouted both at home and abroad. They see their name stolen by their critics and their enemies because of its noble associations. They see vain and empty demagogues without number stirring the passions of the people, calling upon envy and malice to take the place of brotherhood, and upon prejudice to drive principle from its high seat. They see dictators displacing constitutional government and the people either indifferent or applauding. Truly, the liberal needs courage just now to keep the lamp of his faith alight. Emerson, a great philosopher of liberalism, felt all this in his own day, and for all that would not despair of our Republic. Neither does the modern liberal. He comforts himself with reflection on the power of truth and the healing hand of time.

The liberal's strength conceals one very real weakness. He leans too heavily upon reason and reasonableness, and in so doing often overlooks the tremendous power of those human instincts, reactions and emotions which effectively exclude reason from their immediate control. The modern psychologist reveals in his studies a human mind that is a much more complicated thing than it was once thought to be. All sorts of hidden and suppressed tendencies are at work in it and upon it. Past generations and long-forgotten experiences have left their mark there. When the liberal calls upon reason to lead, the answer is too often only a mocking cry from instinct and appetite and fear. For all this the liberal will neither surrender his hope and his faith in progress and so pass over to the tory camp, nor yield the primacy of the individual human mind and soul and so assent to submerge human personality in an impersonal collective whole. He watches men wage war upon their own interest in the name of selfishness, because of their lack of intelligence. He watches men do harm to their fellows while proffering them help, through lack of intelligence. He sees men's substance wasted, men's business badly done, men's natural resources frittered away, through lack of intelligence. It is for these reasons that the liberal never ceases to preach the gospel of sound and generous education. He is not content with mere information, but asks for a disciplined will, a rich and fine body of emotional life, and an open-minded intelligence that will seek the truth realizing that the truth, however old in fact, is always new in form.

The liberal treasures the historic associations of his faith. He finds them in John Milton and John Hampden. He finds them in Benjamin Franklin and in Samuel Adams. He finds them in Thomas Jefferson and in Abraham Lincoln. He finds them in William Ewart Gladstone and in John Morley. He prefers those associations and their promise for the world to the glittering baubles of quickly passing place and power, when these are gained by denying liberalism. He maintains his serenity and his confidence amid all discouragement, and feels able calmly to say to his opponents, as Gladstone said to the House of Commons when a hostile majority was about to throw out his first measure of Irish home rule: "The ebbing tide is with you and the flowing tide is with us."

AMENDMENT OF INTERIOR DEPARTMENT APPROPRIATION BILL.

Mr. ROBINSON submitted the following amendment intended to be proposed by him to House bill 5078, the Interior Department appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed:

On line 10, page 85, strike out everything down to the word "*Provided,*" on line 16, page 85, and add the following:

"Hot Springs National Park, Ark.: For administration, protection, and maintenance and improvement, including not exceeding $2,500 for the purchase, maintenance, operation, and repair of motor-driven passenger-carrying vehicles for the use of the superintendent and employees in connection with general park work, $60,000; for construction of physical improvements, $18,000, including not exceeding $15,000 for replacement of existing sewer along front of Hot Springs National Park and to continue off reservation to connect with sewer system of city of Hot Springs, and not exceeding $3,000 for erection of a comfort station; in all, $78,000."

EXPENSES OF SENATE COMMITTEE AT FUNERAL OF FORMER PRESIDENT WILSON.

Mr. ROBINSON submitted the following resolution (S. Res. 143), which was referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That the Secretary of the Senate be, and is hereby, authorized and directed to pay, out of the appropriations for the contingent fund of the Senate, the actual and necessary expenses of the Senate committee appointed to attend the funeral obsequies of Woodrow Wilson, late a President of the United States, on voucher or vouchers properly allowed by the Committee to Audit and Control the Contingent Expenses of the Senate.

MARTIAL LAW IN HAITI.

Mr. McCORMICK submitted the following resolution (S. Res. 144), which was referred to the Committee on Military Affairs:

Whereas martial or military law was proclaimed in the territory of the Republic of Haiti by the commander of the American military forces landed there in 1915; and

Whereas such military law continues effective throughout the territory of a friendly Republic by the authority of the President of the United States; and

Whereas under such military law citizens of Haiti are liable to arrest by the armed forces of the United States and to trial before military tribunals of the United States nine years after military law was first proclaimed to the end that anarchy might be checked and civil order restored: Therefore be it

Resolved, That the continuance of such military or martial law, and the liability of Haitian citizens, throughout the Republic, to trial before military tribunals of the United States, is undemocratic, unrepublican, and contrary to American ideals and the policies of Warren G. Harding, late President of the United States.

"BIG FIVE" MEAT-PACKING COMPANIES.

Mr. LADD submitted the following resolution (S. Res. 145), which was referred to the Committee on Agriculture and Forestry:

Resolved, That the Attorney General be, and he hereby is, directed to report immediately to the Senate all information now in his possession relating to the steps taken by him to secure compliance by the "Big Five" meat-packing companies with the terms of the consent decree entered in the Supreme Court of the District of Columbia on February 27, 1920, agreed to by the said "Big Five" packers, and to report in full to the Senate concerning the status of each of the defendants with relation to divesting themselves of the so-called unrelated items according to the terms of the said decree, and to advise fully concerning noncompliance, if any there be, with the terms of the decree by any one or more of the said packers.

INVESTIGATION OF SHIPPING BOARD AFFAIRS.

Mr. KING. Mr. President, one of the live questions before us is the Shipping Board. The Shipping Board itself is not very live and it is not functioning very well. I submit a resolution, which I ask may be printed in the RECORD and referred to the Committee to Audit and Control the Contingent Expenses of the Senate.

The resolution (S. Res. 146) was referred to the Committee to Audit and Control the Contingent Expenses of the Senate, and was ordered to be printed in the RECORD, as follows:

Whereas the United States Shipping Board and the Emergency Fleet Corporation, which it controls, have expended approximately three thousand five hundred million dollars of moneys and funds of the Government of the United States, and it is claimed that the assets of said United States Shipping Board and Emergency Fleet Corporation do not exceed $200,000,000, and that the claims against, and the liabilities of, said Shipping Board and Emergency Fleet Corporation exceed the said assets; and

Whereas it is claimed that the wasteful, extravagant, and improvident practices which have in part caused the aforesaid condition are being continued, and will within a short time result in the complete bankruptcy and failure of the business of the Government being conducted by said Shipping Board and Emergency Fleet Corporation, as well as in the total depreciation and destruction of the investment of the Government in the property committed to their control; and

Whereas the large appropriations made by Congress and the proceeds of the sale of ships and other property have been and are being absorbed and consumed in operating expenses, and further large appropriations are being sought to cover operating deficits and losses resulting from the alleged incompetence of said Shipping Board and Emergency Fleet Corporation: Now therefore be it

Resolved, That a committee of five Senators be appointed by the President pro tempore of the Senate, which committee is directed to investigate the affairs of the United States Shipping Board and Emergency Fleet Corporation, and to ascertain the present condition of each of said organizations, the amount of their assets, the present sale value of the property of the Government under their control, the amount of pending claims against and the existing liabilities of said Shipping Board and Emergency Fleet Corporation, the amount of claims which have been paid, the manner of operating Government ships and conducting the business of said Shipping Board and Emergency Fleet Corporation, and other pertinent and cognate matters connected therewith, and to report to the Senate its findings, together with its recommendations, for the prevention of said abuses, and the future disposition and administration of the shipping property of the Government.

LEASES OF NAVAL OIL LANDS.

Mr. LA FOLLETTE. Mr. President, in the course of the debate upon the investigation which is being prosecuted by the Committee on Public Lands and Surveys reference has been made to the fact that on April 21, 1922, I introduced the resolution (S. Res. 282) upon which that investigation is proceeding. Owing to that fact, I presume, and at the suggestion of the senior Senator from Montana [Mr. WALSH], the Committee on Public Lands and Surveys extends to me the courtesy of again introducing the resolution in the same form in which it was passed in the Sixty-seventh Congress, in order that it may be confirmed by this Congress. I now submit the resolution, Mr. President. It has already been submitted to the chairman of the Committee to Audit and Control the Contingent Expenses of the Senate. It is very desirable that the resolution should be passed to-day. I trust that the committee will be able to make a speedy report to the Senate, and that unanimous consent will be accorded for its consideration very early at to-day's session. I ask to have the resolution which I have presented immediately referred to the Committee to Audit and Control the Contingent Expenses of the Senate.

The PRESIDENT pro tempore. In the absence of objection, the resolution will be read and referred as requested.

The resolution (S. Res. 147) was read and referred to the Committee to Audit and Control the Contingent Expenses of the Senate, as follows:

Resolved, That the Secretary of the Interior is directed to send to the Senate:

(a) Copies of all oil leases made by the Department of the Interior within naval oil reserve No. 1, and, separately, naval oil reserve No. 2, both in the State of California, and naval oil reserve No. 3, in the State of Wyoming, showing as to each the claim upon which the lease was based or issued, the name of the lessee, the date of the lease, the area of the leased property, the amount of the rent, royalty, bonus, and all other compensation paid by and to be paid to the United States.

(b) All Executive orders and other papers in the files of the Department of the Interior and its bureaus, or copies thereof if the originals are not in the files, authorizing or regulating such leases, including correspondence or memoranda embodying or concerning all agreements, instructions, and requests by the President or the Navy Department as to the making of such leases and the terms thereof.

(c) All correspondence, papers, and files showing and concerning the applications for such leases and the action of the Department of the Interior and its bureaus thereon and upon all the several claims upon which such leases were based or issued, all in said naval reserves.

(d) And all contracts for drilling wells on naval oil reserves, date and terms of same, reasons therefor, and the number and date of the drilling of wells on private lands adjacent to oil reserves.

Resolved further, That the Committee on Public Lands and Surveys be authorized to investigate this entire subject of leases upon naval oil reserves, with particular reference to the protection of the rights and equities of the Government of the United States and the preservation of its natural resources, and to ascertain what, if any, other or additional legislation may be advisable, and to report its findings and recommendations to the Senate.

Resolved further, That the said committee is hereby authorized to sit and perform its duties at such times and places as it deems necessary or proper, and to require the attendance of witnesses by subpœnas or otherwise, to require the production of books, papers, and documents, and to employ counsel, experts, and other assistants, and stenographers at a cost not exceeding 25 cents per 100 words to report such hearings. The chairman of the committee, or any member thereof, may administer oaths to witnesses and sign subpœnas for witnesses, and every person duly summoned before said committee, or any subcommittee thereof, who refuses or fails to obey the process of said committee or appears and refuses to answer questions pertinent to said investigation shall be punished as prescribed by law. The expenses of said investigation shall be paid from the contingent fund of the Senate on vouchers of the committee or subcommittee, signed by the chairman, and approved by the Committee to Audit and Control the Contingent Expenses of the Senate.

Mr. LENROOT. I ask unanimous consent to have inserted in the RECORD, in order that Senators may understand the desirability of immediate action upon the resolution just introduced, the resolution agreed to on February 5, 1923, continuing the authority of the Committee on Public Lands and Surveys over into the Sixty-eighth Congress.

The PRESIDENT pro tempore. It will be so ordered.

The resolution is as follows:

Resolved, That Senate Resolution No. 282, agreed to April 21, 1922, and Senate Resolution No. 294, agreed to May 15, 1922, authorizing and directing the Committee on Public Lands and Surveys to investigate the entire subject of leases upon naval oil reserves, with particular reference to the protection of the rights and equities of the Government of the United States and the preservation of its natural resources, and to report its findings and recommendations to the Senate, and providing that the expenses of such investigation be paid from the contingent fund of the Senate, be, and the same hereby are, continued in full force and effect until the end of the Sixty-eighth Congress.

The committee, or any subcommittee thereof, may sit during the sessions or recesses of the Senate, and after the expiration of the present Congress until the assembling of the Sixty-eighth Congress, and until otherwise ordered by the Senate.

Mr. LENROOT. Mr. President, in addition, I now ask unanimous consent for the insertion in the RECORD of the statement of Mr. Fall when he appeared before the Committee on Public Lands and Surveys, declining to testify upon the ground that such testimony might incriminate himself, and also challenging the jurisdiction of the committee upon the legal question raised as to whether or not it was a continuing body. The committee is very desirous to have immediate action upon the resolution.

The PRESIDENT pro tempore. Is there objection to the request of the junior Senator from Wisconsin? The Chair hears none, and the matter referred to by him will be printed in the RECORD.

The matter referred to is as follows:

Mr. FALL. I decline to answer the question for the following reasons and on the following grounds:

The committee is conducting an investigation under Senate Resolution 282, agreed to April 21, 1922, in the Sixty-seventh Congress, and Senate Resolution 294, agreed to May 15, 1922, in the same Congress, and further by virtue of Senate Resolution 434, agreed to by the Senate on February 5, 1923, during the same Congress, and I do not consider that, acting under those resolutions, or under the last-named resolution, which authorizes the committee to sit after the expiration of the Sixty-seventh Congress "until the assembling of the Sixty-eighth Congress, and until otherwise ordered by the Senate," this committee has any authority to conduct the investigation now attempted to be conducted by the addressing of this question to me.

I decline to answer on the further ground that on January 7, 1924, Senator CARAWAY introduced in the Senate of the United States, in this Congress, Senate Joint Resolution 54, attempting to deal with the lease of the Mammoth Oil Co.; that that resolution was referred to this committee, and in due course the Senate discharged this committee as of January 24, 1924, and the Senate thereafter, on January 31, 1924, agreed to that resolution and completed its consideration thereof, the resolution being so amended as to deal, in the Senate, in a plenary way, with the leases upon naval oil reserves which were before this committee under Senate Resolution 282 and Senate Resolution 294; and that this committee has no further authority to deal with Senate Joint Resolution 54, since it has been discharged by the Senate, and the Senate itself has finally acted upon the resolution.

I decline to answer on the further ground that Senate Joint Resolution 54 as passed unanimously by the Senate recites that it appears from evidence taken by this committee that certain lease of naval reserve No. 3, in the State of Wyoming, bearing date April 7, 1922, made in form by the Government of the United States through myself, Albert B. Fall, Secretary of the Interior, and Edwin Denby, Secretary of the Navy, as lessor, and certain lease of naval reserve No. 1, in the State of California, bearing date December 11, 1922, made in form by the Government of the United States, through myself, Albert B. Fall, Secretary of the Interior, and Edwin Denby, Secretary of the Navy, as lessor, "were executed under circumstances indicating fraud and corruption"; that said leases were entered into without authority on the part of the officers purporting to act in the execution of the same for the United States and in violation of the laws of Congress; and that in the same resolution it is resolved that the President of the United States be authorized and directed immediately to cause suit to be instituted and prosecuted for the annulment and cancellation of the leases, and to prosecute such other actions and proceedings, civil and criminal, as may be warranted by the facts in relation to the making of said leases, and the President is further authorized and directed to appoint special counsel to have charge and control of the prosecution of such litigation, and I decline to answer on the ground that my answer may tend to incriminate me.

In declining to answer and in stating these reasons I wish to express full respect for the committee and for the Senate, but to remind the committee that on October 23 and 24 last, while this committee was sitting in recess of Congress and dealing with Senate Resolution 282 and Senate Resolution 294 I appeared before the committee and discussed at length the negotiations of the leases, including the lease of April 25, 1922, signed by Edwin C. Finney, Acting Secretary of the Interior, and Edwin Denby, Secretary of the Navy, relating to the construction of oil tanks at Pearl Harbor, Hawaii; and thereafter was prepared to appear again before the committee; but since the Senate

of the United States has passed the Senate Resolution 54, that action being concurred in by the House of Representatives, and the Congress of the United States has adjudicated, by that resolution, its finding that the leases were executed under circumstances indicating fraud and corruption, and has directed the President of the United States to prosecute such proceedings, civil, and criminal, as may be warranted by the facts in the making of the said leases, I decline further to answer any question of this committee on the ground that it may tend to incriminate me, and on the further ground first above stated.

Mr. KEYES. Mr. President, I ask unanimous consent to make a report upon Senate Resolution 147, introduced to-day by the senior Senator from Wisconsin [Mr. LA FOLLETTE]. The committee has considered the resolution and unanimously directs me to report it favorably without amendment.

The PRESIDENT pro tempore. Is there objection? The Chair hears none, and the report will be received.

Mr. LA FOLLETTE. Mr. President, I ask unanimous consent for the immediate consideration of the resolution just reported by the Senator from New Hampshire.

There being no objection, the resolution (S. Res. 147) was read, considered by unanimous consent, and agreed to.

MISSISSIPPI RIVER BRIDGES AT MINNEAPOLIS.

The PRESIDENT pro tempore. The Chair lays before the Senate a bill from the House of Representatives and calls it to the attention of the Senator from Minnesota [Mr. SHIPSTEAD].

The bill (H. R. 4366) granting the consent of Congress to the Great Northern Railway Co., a corporation, to maintain and operate or reconstruct a bridge across the Mississippi River was read twice by its title.

Mr. SHIPSTEAD. I desire to call attention to the bill which has just been laid before the Senate. It is identical with Senate bill 802 now on the calendar. I ask that House bill 4366 be given immediate consideration.

The PRESIDENT pro tempore. The Senator from Minnesota asks unanimous consent for the present consideration of the bill. Is there objection?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which was read, as follows:

Be it enacted, etc., That the consent of the Congress is hereby granted to the Great Northern Railway Co., a corporation organized under the laws of the State of Minnesota, its successors and assigns, to maintain and operate or reconstruct, maintain, and operate an existing bridge and approaches thereto across the Mississippi River at Nicollet Island, in the vicinity of Second Avenue, within the city of Minneapolis, State of Minnesota, in accordance with the provisions of an act entitled "An act to regulate the construction of bridges over navigable waters," approved March 23, 1906.

SEC. 2. That the right to alter, amend, or repeal this act is hereby expressly reserved.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

The bill (H. R. 5273) granting the consent of Congress to the Chicago, Milwaukee & St. Paul Railway Co. to construct a bridge over the Mississippi River between St. Paul and Minneapolis, Minn., was read twice by its title.

Mr. SHIPSTEAD. I ask unanimous consent for the present consideration of the bill.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from Minnesota?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which was read, as follows:

Be it enacted, etc., That the consent of Congress is hereby granted to the Chicago, Milwaukee & St. Paul Railway Co., a corporation organized under the laws of the State of Wisconsin, its successors and assigns, to construct, maintain, and operate a bridge and approaches thereto across the Mississippi River so as to connect the line of railway of said company, in the city of St. Paul, with the railway of said company near the south limits of the city of Minneapolis, at a location suitable to the interests of navigation, in accordance with the provisions of the act entitled "An act to regulate the construction of bridges over navigable waters," approved March 23, 1906.

SEC. 2. That the right to alter, amend, or repeal this act is hereby expressly reserved.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

On motion of Mr. SHIPSTEAD, the following bills were indefinitely postponed:

A bill (S. 802) granting the consent of Congress to the maintenance and operation or reconstruction, maintenance, and operation of an existing double-track steel bridge owned and operated by the Great Northern Railway Co. across the Mississippi River within the city of Minneapolis, Minn.; and

A bill (S. 1980) granting the consent of Congress to the construction, maintenance, and operation by the Chicago, Milwaukee & St. Paul Railway Co., its successors and assigns, of a bridge and approaches thereto across the Mississippi River between the cities of Minneapolis and St. Paul, in the State of Minnesota.

HOUSE BILLS REFERRED.

The following bills were severally read twice by their titles and referred as indicated below:

H. R. 584. An act to authorize the county of Multnomah, Oreg., to construct, maintain, and operate a bridge and approaches thereto across the Willamette River, in the city of Portland, Oreg., in the vicinity of the present site of Sellwood Ferry;

H. R. 2818. An act to grant the consent of Congress to construct, maintain, and operate a dam and spillway across the Waccamaw River, in North Carolina;

H. R. 3845. An act to authorize the construction of a bridge across the Little Calumet River at Riverdale, Ill.;

H. R. 4120. An act granting the consent of Congress to the Greater Wenatchee Irrigation District to construct, maintain, and operate a bridge across the Columbia River;

H. R. 4182. An act authorizing the city of Ludington, Mason County, Mich., to construct a bridge across an arm of Pere Marquette Lake;

H. R. 4187. An act to legalize a bridge across the St. Louis River in Carlton County, State of Minnesota;

H. R. 4577. An act providing for the examination and survey of Mill Cut and Clubfoot Creek, N. C.;

H. R. 4807. An act granting the consent of Congress to the State Highway Commission of Louisiana to construct, maintain, and operate a bridge across West Pearl River in the State of Louisiana;

H. R. 4808. An act granting the consent of Congress to the construction, maintenance, and operation of a bridge across the Pearl River between St. Tammany Parish in Louisiana and Hancock County in Mississippi;

H. R. 4817. An act granting the consent of Congress to the State of Illinois and the State of Iowa, or either of them, to construct a bridge across the Mississippi River connecting the county of Whiteside, Ill., and the county of Clinton, Iowa;

H. R. 4984. An act to authorize the Clay County bridge district, in the State of Arkansas, to construct a bridge over Current River;

H. R. 5337. An act granting the consent of Congress to construct a bridge over the St. Croix River between Vanceboro, Me., and St. Croix, New Brunswick;

H. R. 5348. An act granting the consent of Congress for the construction of a bridge across the St. John River between Fort Kent, Me., and Clairs, Province of New Brunswick, Canada; and

H. R. 5624. An act authorizing the construction of a bridge across the Ohio River to connect the city of Benwood, W. Va., and the city of Bellaire, Ohio; to the Committee on Commerce.

H. R. 5557. An act to authorize the settlement of the indebtedness of the Republic of Finland to the United States of America; to the Committee on Finance.

H. R. 4439. An act to amend section 71 of the Judicial Code as amended; to the Committee on the Judiciary.

H. R. 4442. An act to extend the insurance and collect-on-delivery service to third-class mail, and for other purposes; to the Committee on Post Offices and Post Roads.

H. R. 4457. An act conferring jurisdiction upon the Court of Claims to hear, examine, adjudicate, and enter judgment in any claim which the Cherokee Indians may have against the United States, and for other purposes.

The PRESIDENT pro tempore. At the request of the Senator from Oklahoma [Mr. HARRELD] this bill will lie on the table, if there be no objection. The Chair hears none, and it is so ordered.

H. R. 3444. An act for the relief of certain nations or tribes of Indians in Montana, Idaho, and Washington; and

H. R. 3852. An act providing for the final disposition of the affairs of the Eastern Band of Cherokee Indians of North Carolina; to the Committee on Indian Affairs.

HUDSON RIVER BRIDGE, NEW YORK.

Mr. WADSWORTH. Mr. President, out of order, I ask unanimous consent for the immediate consideration of the bill (H. R. 4796) to extend the time of the Hudson River Connecting Railroad Corporation for the completion of its bridge across the Hudson River in the State of New York. This is in the nature

of an emergency matter, and I hope the bill may be passed to-day.

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

Mr. KING. I should like to ask the Senator from New York is there a unanimous report of the committee in favor of the bill?

Mr. WADSWORTH. Yes; I so understand.

Mr. KING. Then I have no objection to the passage of the bill.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which was read, as follows:

Be it enacted, etc., That the time for the completion of the bridge of the Hudson River Connecting Railroad Corporation, under the provisions of the act approved February 15, 1921, be extended to the 1st day of January, 1925.

SEC. 2. That the right to alter, amend, or repeal this act is hereby expressly reserved.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

LANDS IN NAVAL RESERVE NO. 1.

Mr. WALSH of Montana. I ask unanimous consent for the immediate consideration of Senate Joint Resolution 71, which was introduced by me a few days ago, directing the Secretary of the Interior to institute proceedings at once to assert and establish the title of the United States to sections 16 and 36 of naval reserve No. 1 and directing the President of the United States to employ special counsel to prosecute such proceedings. I imagine no opposition will be offered to the joint resolution.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from Montana?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (S. J. Res. 71) directing the Secretary of the Interior to institute proceedings touching sections 16 and 36, township 30 south, range 23 east, Mount Diablo meridian, which was read as follows:

Resolved, etc., That the Secretary of the Interior be, and he hereby is, directed forthwith to institute proceedings to assert and establish the title of the United States to sections 16 and 36, township 30 south, range 23 east, Mount Diablo meridian, within the exterior limits of naval reserve No. 1 in the State of California, and the President of the United States is hereby authorized and directed to employ special counsel to prosecute such proceedings and any suit or suits ancillary thereto or necessary or desirable to arrest the exhaustion of the oil within said sections 16 and 36 pending such proceedings.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

EDWIN DENBY, SECRETARY OF THE NAVY.

Mr. REED of Missouri. Mr. President, I believe morning business has been concluded. If so, I desire to take the floor.

The PRESIDENT pro tempore. If there are no further concurrent or other resolutions, morning business is closed.

Mr. ROBINSON. Mr. President, if the Senator from Missouri will yield for that purpose I ask unanimous consent that the unfinished business may be laid before the Senate.

There being no objection, the Senate resumed the consideration of the resolution (S. Res. 134) submitted by Mr. ROBINSON on January 28, 1924, as modified by him, as follows:

Whereas the United States Senate did on January 31, 1924, by a unanimous vote adopt Senate Joint Resolution No. 54, to procure the annulment of certain leases in the naval oil reserves of the United States; and

Whereas the said resolution, among other things, declared as follows:

"Whereas it appears from evidence taken by the Committee on Public Lands and Surveys of the United States Senate that certain lease of naval reserve No. 3, in the State of Wyoming, bearing date April 7, 1922, made in form by the Government of the United States, through Albert B. Fall, Secretary of the Interior, and Edwin Denby, Secretary of the Navy, as lessor, to the Mammoth Oil Co., as lessee, and that certain contract between the Government of the United States and the Pan American Petroleum & Transport Co., dated April 25, 1922, signed by Edward C. Finney, Acting Secretary of the Interior, and Edwin Denby, Secretary of the Navy, relating, among other things, to the construction of oil tanks at Pearl Harbor, Territory of Hawaii, and that certain lease of naval reserve No. 1, in the State of California, bearing date December 11, 1922, made in form by the Government of the United States through Albert B. Fall, Secretary of the Interior, and Edwin Denby, Secretary of the Navy, as lessor, to the Pan American Petroleum Co., as lessee, were executed under circumstances indicating fraud and corruption; and

"Whereas the said leases and contract were entered into without authority on the part of the officers purporting to act in the execution of the same for the United States and in violation of the laws of Congress; and

"Whereas such leases and contract were made in defiance of the settled policy of the Government, adhered to through three successive administrations, to maintain in the ground a great reserve supply of oil adequate to the needs of the Navy in any emergency threatening the national security": Therefore be it

Resolved, That it is the sense of the United States Senate that the President of the United States immediately request the resignation of Edwin Denby as Secretary of the Navy.

Mr. REED of Missouri. Mr. President, the Federal Government has often faced great dangers. It has not hitherto experienced so great a national shame. Corruption has branded its bar sinister across the escutcheon of the Republic. The loathsome trail of the bribe giver has been traced to the Cabinet. It should be extended to the doors of the Federal penitentiary. Such is the voice of conscience and the demand of justice.

The gravity of the situation can hardly be exaggerated. It rises above partisan considerations and calls for united action by all public servants regardless of party affiliations. If the confidence of the people in our Government is to be maintained—nay, if it is to be deserved—all officers who have betrayed their trusts must be brought to the bar of justice. All officers who have permitted the country to be plundered while they slept at their posts must be removed. Every man who has for fees or favor employed the influence which he gained through the generosity of the public, to seduce public servants must be exposed and condemned.

Of even greater moment is the tracking down, the conviction, and punishment of that abominable brood who, themselves worshipping money and holding that every man has his price, regard it quite as legitimate to debauch the soul of a man as to buy a pig in the market, shrewder to bribe a public officer than to make an honest tax return, and more praiseworthy to plunder the Government than to gain money in legitimate commerce.

We are about to determine whether oil kings and Cabinet officers are immune from the law which governs the common people of the land. In the performance of that task, let us eschew party advantage and think only of the country.

I deplore the partisanship which has been injected into this debate. "All the saints are not of our church."

I believe the Republican Senators are prepared to do their duty. I can differ from a man in politics without impugning his rectitude. I believe the President will perform his duty.

There may have been, doubtless there has been, a natural holding back. Decent men are loath to believe that the high places have been polluted. Mistakes have been made.

What has happened may be excused; but from this day forward the people will neither brook mistakes nor forgive a lack of vigilance.

We shall gain little by recrimination. In the end the public will know how to appraise the conduct of individuals.

HOW STANDS THE CASE?

Fall took office March 4, 1921, and immediately began setting the stage for one of the most gigantic steals of history.

About April 1, 1922, the Senator from Wyoming [Mr. KENDRICK], always a vigilant guardian of the public interests, having heard disquieting rumors concerning the disposition of naval oils, inquired at Fall's office and was assured nothing was being done.

Nevertheless the conspirators were, and for a long time had been, busy. By April 7, 1922, the stage was set, and Sinclair, in the rôle of minor burglar, carried away the Teapot Dome. On April 25 Doheny, playing the star part, strutted across the stage boasting that his loot exceeded $100,000,000. The play was ended. The curtain was rung down. The oil-circuit season was closed. The actors retired, Sinclair to the race track, Doheny to his California habitat, and Fall prepared to return to innocent pastoral pursuits.

But the odor of crime will steal through cracks and escape by way of knotholes. The smell was detected, and rumor gave it tongue. It came to the ears of the Senator from Wyoming [Mr. KENDRICK], who promptly, on April 15, introduced his resolution demanding the facts. The reply of the Interior Department was evasive and false.

On April 29 the Senator from Wisconsin [Mr. LA FOLLETTE] introduced a resolution in consonance with that of the Senator from Wyoming, but also calling for the leases and demanding the appointment of a committee of investigation.

For approximately 18 months the committee was unable to get to the inside of the transactions. Meanwhile the oil com-

panies were exploiting the public lands. At least one oil magnate was appropriately engaged in the "kingly sport" of the race track. Sinclair was proudly defending America's sporting honor in the international handicap. Fall was alternately serving his old-time master in Mexico and Russia, or indulging in bucolic reveries amidst the innocent and unsuspecting bovines Sinclair had contributed to his herd. The serenity of his peaceful reveries was suddenly disturbed by the rude inquiry of fact, "Where did you get the money with which to buy this ranch?" To a rogue nothing is so disquieting as an inquiry of fact.

Nevertheless, the culprits maintained an appearance of courage. There was much of swagger, offended dignity, and bold defiance.

That was a few weeks ago.

To-day the crime stands confessed, and the culprits, pale-faced and chattering, are trembling for the future.

I say the crime stands confessed. It is true that the declaration of Albert Fall would not be received in the courts as a confession, because the accused can stand upon his constitutional rights and refuse to testify. Nevertheless, in the forum of common sense, when a man charged with a crime swears that if he were to answer questions his own evidence would incriminate him, his statement is universally recognized as proof that a crime has been committed. He who dare not speak lest he shall prove himself a criminal stands self-condemned. When the lips proclaim guilt they but utter the cry of conscience.

Nor is Doheny in a happier plight. Entangled in the meshes of his own words, tripped and trapped by admitted facts, he lies floundering.

As for Sinclair, he manifestly prefers the companionship of bright-eyed Paris to the stony faces of the Senate committee.

I repeat, the crime stands confessed. So far as Fall, Doheny, and Sinclair are concerned, guilt has been found by a substantially unanimous vote in both branches of Congress. That decision is backed by the universal verdict of 110,000,000 people.

How stands the case against Edwin Denby, Secretary of the Navy?

The pending resolution declares that "it is the sense of the United States Senate that the President should request the resignation of Edwin Denby and all other officials in the Navy Department whose connection with the leasing of the oil reserves of the Government indicates malfeasance in office."

Malfeasance is the doing of an act which a person ought not to do. It embraces willfully evil conduct, but it also includes all illegal acts. It is commonly used to describe official misconduct.

The question, therefore, to be determined is whether Edwin Denby has been guilty of illegal acts.

At the threshold of our inquiry we are met by three special pleas in bar:

First, that the Congress, being empowered even against the President's will to oust the Secretary by impeachment, is therefore without authority to request the President to ask for his resignation.

The statement is perhaps the most perfect non sequitur yet produced. It should be embalmed and preserved as a classical specimen. Being devoid of all sense, to answer it were drivel. Intelligent men know that the existence of the power of impeachment does not deprive the Senate of the right to express an opinion and to send that opinion to the President.

Second, it is asserted that we are engaged in enforcing lynch law, because, it is alleged, we are denying the Secretary an opportunity of hearing and defense.

The complete answers are:

(a) That having appeared before the committee and having been granted the fullest opportunity of explanation, he has had his hearing; and

(b) That he is not without counsel to champion his cause here.

Has not the Senator from Maine [Mr. HALE] brought to the defense of the Secretary the thunders of his eloquence and the forces of his invincible logic? Has not the grave and revered leader on the Republican side in his most oracular manner warned against the outrage of laying a finger upon the skirts of Denby's garments? Standing between two such champions, the gallant Secretary of the Navy might defy the winged lightning, or exclaim, in Biblical phrase: "The gates of hell shall not prevail against us."

Third, it is pleaded that, although the Senate has by unanimous vote found "that the leases were executed by Denby in defiance of the settled policy of the Government and without authority of law," and that "said leases are against public policy and void," and "that they were granted under circumstances indicating fraud and corruption," nevertheless Secretary Denby did not understand the nature of his acts and would never, never, never have done it if he had known "what he was about."

But here comes Denby answering and waiving this and all the other pleas.

He declares that he approves the leases, that he acted rightly, that he would do the same thing again, and that he will not resign even if Congress enacts the resolution.

This defiant declaration destroys all pleas in mitigation and likewise all appeals for sympathy. It forces Congress to act.

We have unanimously declared these leases "contrary to public policy, fraudulent, and void." We must either reverse our action, withdraw our accusations, and apologize, or we must exert ourselves to secure the removal of the man who ratifies and confirms the wrong and asserts his willingness to repeat the offense. Mr. Denby's statement amounts to the assertion that he approves the Doheny and Sinclair transactions in all their enormity; that he stands for their confirmation and there defense. It stands to reason that if there be other naval reserve oil lands he will at any time transfer them to Sinclair or Doheny, even though the conditions be as outrageous as those surrounding his previous transactions with them. It therefore becomes our solemn duty to employ the utmost vigilance and the speediest possible method to force the retirement of this dangerous man.

Mr. CARAWAY. May I interrupt the Senator just a moment?

Mr. REED of Missouri. I yield.

Mr. CARAWAY. I was just about to ask in what position this places the President of the United States, who signed the joint resolution recently passed by Congress and who is hiring lawyers to undo what one of his Cabinet officer does, while still keeping that Cabinet official to advise him what to do in the future?

Mr. REED of Missouri. I think I will refer that to the Hon. Calvin Coolidge to answer. The quickest method is to pass this resolution requesting the President to act. If the President shall make default, we will then be remitted to the slower but certain process of impeachment. Let us remember that Sinclair and Doheny are still at large and Denby is still in office. It is, therefore, imperative that we shall determine whether Denby is guilty as charged in the resolution. Let us have done with whining pleas in mitigation.

Mr. FLETCHER. Mr. President——

The PRESIDING OFFICER (Mr. JONES of Washington in the chair). Does the Senator from Missouri yield to the Senator from Florida?

Mr. REED of Missouri. I yield.

Mr. FLETCHER. Let me call attention to the modification of the resolution offered by the Senator from Arkansas. It recites all the things the Senator has mentioned as having already been passed upon and adjudicated by both the House and the Senate, and then concludes:

> Therefore be it—
>
> *Resolved*, That it is the sense of the United States Senate that the President of the United States immediately request the resignation of Edwin Denby, Secretary of the Navy.

That is the modified resolution and does not embrace the charge of malfeasance or misfeasance, or anything except what we have already done.

Mr. REED of Missouri. Very well. Denby's responsibility is so inextricably mixed with that of Fall, Doheny, and Sinclair that a statement of the case against him involves a review of all the facts in evidence. It is all part of one cloth.

The evidence which I shall but briefly sketch exposes a chain of circumstances stronger than steel. As we proceed it will be seen that the facts are so knit together as to be irreconcilable with any conclusion save that of guilt.

To have a correct understanding of Denby's acts the background of the picture must be examined. Let it be understood that in what I am about to say I do not include the thousands of honest men who have been engaged in the oil business. For 20 years the great oil magnates have cast eager eyes upon the deposits of the world. The vast domain of Russia, the mountains of Persia and Armenia, the plains and deserts of Turkey, the wastes of Africa, and the hills and valleys of Mexico have alike come within their covetous gaze. But no point of earth has so aroused their cupidity and excited their avarice as the rich oil deposits belonging to the Federal Government. They have plotted and conspired to deprive the people of this great source of wealth and national defense. There is no artifice they have not employed, no seduction they have not contrived, no crime at which they have hesitated. With the conscience of burglars, they have adopted hypocrisy as their mask and employed bribery as their "jimmy." To them the statutes of the

land were and are so many doors and bolts unjustly barring them in their enterprise of loot.

Recognizing these facts in 1909 President Taft withdrew three large areas of land, two in California and one in Wyoming.

In 1910 Congress passed an act conferring the express power upon the President to make such withdrawals.

In 1912 President Taft created in California naval reserves Nos. 1 and 2.

In order to further conserve the oils and to provide for the defense of the country, President Wilson, in 1915, after full investigation and upon the recommendation of the officers of the Navy, set aside naval reserve No. 3, "the Teapot Dome," a name now destined to an immortality of infamy.

During all President Wilson's administration the oil buccaneers continued their piratical tactics, never for a moment relaxing their efforts or their vigilance.

On the other hand, Mr. Daniels, Secretary of the Navy, backed by Admiral Griffin and other naval officers, stoutly opposed the raiding of the oil lands.

Examples of the far-reaching devices and the relentless greed of these oil magnates are found in the fact that, according to the testimony of Doheny, when during Mr. Wilson's administration he was making an effort to secure leases of the Teapot Dome, he paid George Creel $5,000 for his influence, or rather his pretended influence, with Secretary Daniels. The testimony of Doheny will be found on pages 3640 and 3641 of the transcript.

It affords indubitable proof of the corrupt drift of Doheny's mind. It demonstrates that his policy was to buy the influence of every man he believed could cunningly debauch public officers.

It also shows the contemptible kind of instruments he was willing to employ. The hiring of Creel to debauch, as he hoped, Daniels throws light on Doheny's every act, and demonstrates the villianous purposes of his heart.

In the light thus shed, let us proceed.

Fall had achieved his life ambition, a seat in the United States Senate. His services upon the Senate committee investigating the oil situation in Mexico may have been entirely honest, but Doheny states that they were of such great value to the oil magnates exploiting Mexico, they aroused in him the warmest feelings of gratitude and friendship, and served to revivify the ancient fraternity existing between himself and Albert Fall.

A prominent figure in the Senate, and engaged in work for which his legal ability admirably qualified him, Fall astounded his associates and surprised his constituency by stepping from his high place in the Senate to the subordinate position of Secretary of the Interior. The job he took is filled with the drudgery of details and in no respect compares with the dignity and importance of the office of a Senator representing a great and sovereign State. The inference is inevitable that Fall was inspired by some unusual motive when he took this remarkable step. What that purpose was may be inferred from his subsequent acts.

On April 1, 1921, less than 30 days after taking his oath of office, Fall informed Admiral Griffin that he proposed to take over the oil reserves. Griffiin vehemently protested. (See printed record, p. 348.)

Why this anxiety of Fall's to take over the store of oil set aside for use by the Navy in time of some great national emergency? What was his interest? Why did he not attend to the business of his own office? Was there not plenty of work in the Interior Department?

There can be but one answer, namely, that doubtless the same interests that had employed Creel to try to influence Daniels had reached Fall. Indeed, we must conclude that they were the inspiring cause of his resignation as Senator to take the job of Secretary. With remarkable alacrity Fall proceeded to the accomplishment of his purpose.

At this point Denby's connection and responsibility certainly begin.

On May 11 Fall transmitted to Denby the draft of an illegal order for the President's signature transferring the naval oil lands to the Secretary of the Interior.

On the same day three officers of the Bureau of Naval Engineering—Griffin, Shafroth, and Stewart—vehemently protested against the transfer of the oil lands. Admiral Griffin prepared for the Secretary of the Navy, Mr. Denby, a memorandum of protest. Especially did Commander Stewart in a long and forceful communication expose the outrage about to be committed and warned against the results which have actually happened.

In the full light of these protests and with knowledge of what he was doing Secretary Denby on May 26 wrote the President approving Fall's proposal.

On May 31 the President signed the Executive order, and the naval oil lands went from their proper and legal custodian into the hands of Fall, to be by him corruptly transferred to his fellow conspirators.

Fall knew that the act of 1920 did not authorize the President to make the transfer, for Fall was a Member of the Senate when the act was passed.

The President surely ought to have known that the act of 1920 did not authorize him to make the transfer, for he likewise was a Member of the Senate when the act was passed. Denby, assuming that he had sufficient intelligence to understand the act, must have known that the law did not authorize the transfer.

Fall had gone into the Department of the Interior to do this job. Fall wrote the order. Denby signed it. Their responsibility is joint and several. They are the Siamese twins of this fraud. Fall even prepared the letter of transmittal for Denby to sign, and Denby, like an obedient spaniel, went "to heel" at the command of his master.

Prior to this Denby had received sealed bids for 22 offset wells to protect the Government lands of reserve No. 1 from the wells of the Standard Oil Co.

Here is a significant circumstance. Although the bids were addressed to Denby and received by him before the President's order transferring the lands to Fall had been signed, Denby refused to open the bids, holding them for action by Fall. Denby's conduct is therefore a complete demonstration that he had a perfect understanding with Fall and he did not propose to take any action which would interfere with any of Fall's plans. As one contemplates this phase of the story, he is forced to exclaim, "How beautiful a thing it is for brethren to dwell together in unity."

The award was made by Fall to Doheny's company, the Pan American, and constituted for Doheny an entering wedge. It was the camel's nose under the tent.

At this point I indulge in what may at first seem a digression. That it is a part of the general picture will soon be manifest.

There are two sections of land in the State of California known as sections 16 and 36. If by the findings of the Government they were mineral lands, the title remained in the Government. If they were not mineral lands, they belonged to the State of California. In strict accordance with law they had been examined by the Government and had been found to be mineral lands. Hence they belonged to the Government and did not belong to the State of California.

About the year 1909 the State of California, without any authority whatever, proceeded to convey these lands for, I am informed, the nominal sum of about $2.50 per acre. The lands have since been proven to be among the most valuable in the United States. The Standard Oil has since taken more than $10,000,000 worth of oil off section 36.

In 1913 the chief of the field division discovered that these lands were being exploited and reported the facts to the Commissioner of the General Land Office. The commissioner caused an inquiry to be made, and the San Francisco chief of field service was directed to give notice and prosecute the hearing. The record of this proceeding reached the office of the field inspector at San Francisco, but was mislaid and remained lost for a period of some seven years. How the file came to be lost, why proper reports were not made to the General Land Office, will perhaps never be known.

In the latter part of the year 1920 the San Francisco chief of field service discovered the file and reported at once to the Commissioner of the General Land Office, who was at that time Mr. Tallman. The case was immediately put into the hands of the Assistant Secretary of the Interior, Mr. Finney. A consultation was had with the commissioner. The land officer of the district and the chief of the field division were ordered to amend the specifications. They not only complied with the order, but sent the entire file to the office of the Attorney General of the United States, and notified the Attorney General that section 36 was being denuded of its oil and asked him to start a suit to enjoin the Standard Oil from taking oil from the section.

The papers were received by the Assistant Attorney General, Mr. Garnett, about March 4, 1921, that being the day or about the day Fall took office. Mr. Garnett wrote a note to the Attorney General, advising him that the suit should go on and asking for instructions.

Very shortly thereafter a representative of the Standard Oil, Mr. Sutro, handed Mr. Garnett a note from the Attorney General, Mr. Daugherty, telling him to do nothing until he, Daugherty, should confer with him. That conference has never yet been held.

Fall had scarcely taken his seat in office until the attorney of the Standard Oil Co. filed a motion to dismiss the proceedings. Fall listened to Sutro's argument, and although the Government was represented he gave it no chance to be heard. Fall immediately decided this case involving millions of dollars and ordered the entire proceedings dismissed.

It is a significant fact that the Supreme Court of the United States had, prior to Fall's decision, rendered a decision in a similar case which clearly established the principle for which Mr. Garnett contended and which would have given sections 16 and 36 to the Government.

Such is the record of Mr. Daugherty. Such is the record of Mr. Fall. They appear to have been in complete accord. It is another instance of joint and several responsibility. I pause to inquire what excuse will Mr. Daugherty offer?

The Baltimore News on January 30 prints an interview with Daugherty from Miami, Fla., and quotes Mr. Daugherty as saying:

> I am not worried about the situation in Washington. If I felt there was any cause for anxiety, I would never have left Washington. I am here to play. I do not consider it necessary to reply to the attacks which have been made against me.

Evidently Mr. Daugherty was doing something more than playing when he commanded an officer of the Department of Justice not to present the Government's side of this great case. Mr. Daugherty may not be worried, but if I were Attorney General of the United States and my standing had sunk so low that in an investigation of the character now going on the President had to go over my head to find counsel in whom he could repose confidence and whom the country would trust, I could not be playing; I would be praying.

Proceeding in order, October 1 Admiral Griffin retired as Chief of Bureau of Engineering of the Navy Department and Admiral Robison was appointed in his stead. It may not be significant, but it is in testimony that Doheny in 1917 had met Admiral Robison and had discussed the oil reserve, and that Doheny's son was an officer on Robison's ship. Neither may it be important, but it seems to be the fact that Robison is about the only man who is friendly to these leases, and that the officers who were active in opposing the transfer of the oil lands have been displaced from the Board of Engineers and have been assigned to other activities.

On October 25 Robison sent to Denby a program for the future handling of naval oil reserves, which Denby sent to Fall with his approval. That program, among other things, provided for the construction of oil storage at Pearl Harbor through the royalty oils the Navy was to receive, and on October 30 Fall writes Denby approving the entire scheme.

Thus was laid the foundation for the assurance of the ultimate extensions of Doheny's rights to the immense holding he later acquired, as I shall relate.

November 15, or 15 days later, Fall informs Harris, from whom he is buying the ranch, that he will be ready to pay cash for the ranch on or about December 1. He knew what he was talking about, for on November 30, the same day Doheny delivered the money to Fall, Harris executed deeds conveying the ranch to Fall. The consideration was, as I get it from the record, $91,000 for the ranch, $30,000 for personal property, a total of $121,000.

I am taking these figures largely from the speech of the Senator from Montana [Mr. WALSH], who has investigated the question and who can not be given too high praise.

But in addition to this Fall purchased other lands for which he paid $33,000. He has placed upon his ranch an expensive hydroelectric plant which, according to the estimate of the Senator from Montana, cost between $40,000 and $50,000. He purchased livestock costing approximately $3,000. He is understood to have paid his taxes amounting to $8,000. This probably does not nearly embrace all of the moneys expended by Fall, but it totals the handsome sum of $205,000.

Bearing in mind that Fall, prior to this time, declared that he was "broke," and that his ranch, which is described as a dilapidated, run-down place, was transformed so that it had the appearance of being a highly prosperous and in all respects a beautiful, up-to-date property, the question is, Where did Fall get this money?

After telling that he got the money from McLean and that he got no part of it from Doheny, Doheny takes the stand and declares that he did give Fall $100,000 in cash. But what about the other $105,000? McLean declares that he gave Fall $100,000 in checks, but these were returned. This still leaves the question open, where did the $105.000 come from? On the face of the evidence as it now stands unexplained, the inference is clear that the money came from some illegitimate source.

In the latter part of December, Sinclair visited Fall at his ranch, and in Sinclair's private car a discussion occurred regarding the lease of the Teapot Dome. Was that the time Fall got the additional $105,000, or did he get it later? Did he get it from Sinclair and, if not, from what source did the money come?

What a remarkable performance it all is! How out of line with the usual transaction of business! Fall was at this time Secretary of the Interior. His office was in Washington. That was the place to transact business of the Government. That is the place where honest men would naturally have transacted it. Why did not Sinclair wait until Fall returned? Does anyone for a moment conceive that this trip of Sinclair was not undertaken for the purpose of secrecy and that the negotiations were carried on hundreds of miles from the seat of government in a private car between the Secretary and Sinclair, because they wanted to conceal the transaction from the public? In my opinion, there was private business to be conducted in connection with the public business.

This brings us to the year 1922. February 3 Sinclair writes Fall offering to lease the Teapot Dome with tentative general terms. They had already talked about this lease when Sinclair met Fall at the Three Rivers Ranch. Is it conceivable that Sinclair went there to discuss the lease and did not then discuss the terms of the lease?

Light is shed upon the character of the conference between Fall and Sinclair by the fact that, although at that conference it is admitted they talked about the lease, Sinclair on February 3, 1922, wrote Fall a letter the reading of which was intended to give to anyone who might see it the impression that the letter was the initial step; that Sinclair was presenting an entirely new matter. It was plainly written for the purpose of making a record. The letter appears on page 67 of the record, and I ask Senators to read it and then ask themselves if they had had a conference with reference to a business transaction and had written a letter of the kind that there appears whether they would not have referred to that previous conversation unless there was something to conceal.

Prior to April 7 the Senator from Wyoming [Mr. KENDRICK] inquired at Fall's office and was furnished with a press statement, issued April 6, that no definite contract had been made affecting the Teapot Dome. April 7 Fall executed the Teapot Dome lease to Sinclair. Fall of course knew at this time that Senator KENDRICK was interested, but he proceeded with the same secrecy that was employed throughout the entire transaction. No bids were received. No one was afforded an opportunity to lease this valuable property. It was a secret deal and bears every evidence of crookedness.

On April 12 Denby signed this secretly executed lease. And here let me pause to remark that there was a reservation even in the President's order which left Denby a wide jurisdiction. Yet he connived with Fall to execute this secret agreement. So far as I know, Fall and Denby and Sinclair alone knew of the ravishment about to be perpetrated. Again, we find Fall and Denby linked together in an illegal transaction, for the lease was illegal because bids were not received.

Secretary Denby knew the Senate was demanding information; he stood with Fall in keeping the secret from the Senate. Knowing that the Senate was about to investigate this deal the Secretary of the Navy not only kept the counsel of Fall but assisted him by his silence in deceiving the Senate and the country so that the transaction could be consummated and the loot could be delivered.

Mr. BORAH. Mr. President——

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Idaho?

Mr. REED of Missouri. I do.

Mr. BORAH. What is the date of which the Senator is now speaking?

Mr. REED of Missouri. April 12, 1922. I wish to emphasize that if I can emphasize it.

Mr. ROBINSON. Mr. President, will the Senator from Missouri yield for a question?

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Arkansas?

Mr. REED of Missouri. I do.

Mr. ROBINSON. Was any explanation ever given as to why the transaction was kept secret; that is, the transaction as to the Executive order and as to the execution of the leases?

Mr. REED of Missouri. I have never heard an explanation.

Mr. ROBINSON. The only statement I can recall is one which was made by Secretary Fall, or imputed to Secretary Fall, that he thought it was a military secret.

Mr. REED of Missouri. Yes; a military secret.

Mr. ROBINSON. In that connection, I inquire if Secretary Denby has ever offered, even in his statement published this morning in which he seeks to vindicate his action, any explanation whatever for keeping the transaction secret?

Mr. REED of Missouri. I have never heard any.

Mr. ROBINSON. If the public had been made familiar with the fact that an Executive order had been executed transferring the jurisdiction and control of the naval oil reserves from the Navy Department, where it had been vested by Congress and where for some time, at least, the reserves had been safeguarded—if it had been known that such an attempt was being made; if the public had been advised of the proceedings, does the Senator think that the leases would ever have been executed?

Mr. REED of Missouri. Undoubtedly they would not have been executed; at least, that is my opinion.

Mr. WALSH of Montana. Mr. President——

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Montana?

Mr. REED of Missouri. I yield.

Mr. WALSH of Montana. The Senator from Arkansas [Mr. ROBINSON] has called attention to the reason assigned on a number of occasions by Secretary Fall for keeping the Teapot Dome lease a matter of secrecy, namely, that the contract affected the national defense and embodied military secrets; but that was not the only reason assigned. Another reason was assigned, to which, with the permission of the Senator from Missouri, I shall call attention. It is found in a letter to Secretary Denby from Secretary Fall, of date April 12, 1922. I read only the concluding paragraph, as follows:

> I am particularly anxious that no details should be given out pending the final agreements upon the contracts for the construction of reservoir facilities in Hawaii.
>
> Very sincerely yours, ALBERT B. FALL.

That contract—that is, the second Doheny contract—was executed on the 25th day of April, 1922, and it was obviously the purpose not to give out the Sinclair contract of April 7, 1922, until the Doheny contract, which was consummated on the 25th of April, 1922, should also be given out; and, I assume, for the reason that it was apprehended that if information were given out concerning the Sinclair contract such a storm of public protest would have been aroused against it that it would be impossible to effect the contract with Mr. Doheny.

Mr. REED of Missouri. That is to say, the job had to be done in secret if it were done at all.

Mr. HALE. Mr. President——

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Maine?

Mr. REED of Missouri. Certainly.

Mr. HALE. I find in the testimony before the Appropriations Committee on May 4, 1922, which was subsequent to the Teapot Dome lease, but prior to the Doheny lease, that the Secretary of the Navy made the following statement:

> That is a matter that the Department of the Interior would know about very much better than we would; but as soon as it was discovered that such was the situation I asked the Secretary of the Interior if he would undertake to handle it for the Navy thereafter, and we went to the President and secured the Executive order transferring the naval oil reserves to the Secretary of the Interior to administer in trust for the Navy, the Secretary of the Navy being a party to the policies, but not to the actual administrative work. For instance, I signed the Teapot Dome lease, agreeing that it should be opened, because we discovered that that also was being drained off.

Mr. REED of Missouri. Do I understand that the Senator reads that for the purpose of showing why it was kept secret?

Mr. HALE. I read it for the purpose of showing that the Secretary of the Navy did refer to the Teapot Dome lease, subsequent to its making but before the Doheny lease was made.

Mr. REED of Missouri. I did not get that idea from the context.

Mr. WALSH of Montana. What is the date of the testimony to which the Senator from Maine has referred?

Mr. HALE. May 4, 1922.

Mr. WALSH of Montana. That refers to the Executive order which was signed May 30, 1921. But, Mr. President, if the Secretary testified on May 4, 1922, before the Appropriations Committee, the Doheny contract was already signed, because it was signed on the 25th day of April.

Mr. HALE. That was the first Doheny contract.

Mr. WALSH of Montana. No; that was the second Doheny contract. The first Doheny contract was made in June, 1921.

Mr. HALE. I understood the second contract was subsequent to the date. However, it shows that there was no attempt on the part of the Secretary of the Navy to keep the matter secret.

Mr. REED of Missouri. The Senator from Maine has succeeded in demonstrating that after it was all closed up and the goods, wares, and chattels had been packed and hauled away by the burglars some information was given out about it. He has also succeeded in showing that Mr. Denby went to the President and asked the President to turn these lands over to Fall.

Mr. HALE. Precisely; but he did that because——

Mr. REED of Missouri. So that he can no longer claim that he was not a party to that wrong, for it was a wrong—and I am not going to speak of it harshly, because I would not on any account say a harsh thing of the late President Harding.

Mr. HALE. If the Senator will allow me, the Secretary of the Navy also gives his reasons for going to the President and asking that the naval oil reserves be turned over to the Secretary of the Interior.

Mr. REED of Missouri. And his reasons are no reasons at all; in fact, his reasons are reasons that are diametrically against the action taken. I do not want to be led into a digression, but while I am speaking of this, his reasons were the reasons that had been offered for 10 years by every oil magnate and every man who wanted to steal these lands. The battle had raged between the oil men on the one hand and the Navy on the other. The Navy was trying to keep these oils where they could preserve them so that they could fight America's ships in time of some great national emergency. The oil men wanted to get them so that they could make money out of them at the present time.

The contest was never hotter than during Mr. Daniel's administration in the office of the Secretary of the Navy, and it is to the eternal credit of Josephus Daniels that he stood there like a rock refusing to yield the valuable oil. I think in consonance with the advice of the officers of the Navy who knew what they were talking about, he proposed to hold them for the preservation and defense of this Republic in some great hour of peril. Mr. Doheny joined these conspirators against the welfare of the Nation, and now admits that he was one of the men who put under the President's nose to sign the paper transferring the oil lands to Albert Fall to be by Albert Fall in turn transferred to the rogues with whom we are dealing to-day. I trust the Senator from Maine has some more evidence to read in defense.

Mr. HALE. Mr. President, I think it should be stated that the reasons given by the Secretary of the Navy for taking the action that he took were, as he states them, because—

> The two tracts in California that are set aside as naval petroleum reserves, and the one in Wyoming, all have been opened by lease in order to get the oil before it passes entirely into private hands.

Mr. REED of Missouri. Well, that could have been done by the Secretary of the Navy himself. In the name of high heaven why could not the Secretary of the Navy, as the custodian of these lands, have done exactly the thing that he pretended he wanted Albert Fall to do? Was he so devoid of sense and of business judgment that he could not make a lease.

The Congress had imposed upon him the duty of protecting these lands; it was a legal duty; the law was plain and unequivocal. Why was he trying to turn the lands over to Fall? If Senators want to know what I think about it, I think that this man knew that Mr. Fall had a particular reason for wanting the custody of those lands.

I have never seen Cabinet officers or any other officers hastening to give up jurisdiction. Always the movement is in the other direction; men who have power want to complete and round out their power. Let me ask here, since the Senator introduced the question, whose business naturally was it to protect these oils? There were oil lands outside these reserves scattered over the United States; these oil lands were set aside by the act of Congress for the use of the United States Navy when the other oils were exhausted and when, perhaps in some great war, we might find ourselves cut off from an oil supply. Accordingly they were put in the hands of that branch of our Government which would need the oils, which was interested in conserving them and interested in keeping them, so that, when necessary, we could tap these wonderful reservoirs in order to put steam under the engine boilers of our ships and drive them in the battle line and send them on to victory. Yet this representative of the Navy seeks to have the custody of these lands taken from him and given to Fall, who stands here

now impaled by public opinion as having had corrupt motives and as having taken bribes. We find them, hand in hand, going to the President and inducing President Harding to sign an order that was in the teeth of the statutes of the land. There was his reason.

Mr. HALE. Mr. President——

The PRESIDING OFFICER (Mr. HOWELL in the chair). Does the Senator from Missouri yield further to the Senator from Maine?

Mr. REED of Missouri. Certainly.

Mr. HALE. The Secretary of the Navy asked to have these matters put in the hands of the Secretary of the Interior because he did not have the facilities in his department to take care of them and because——

Mr. REED of Missouri. What facilities?

Mr. HALE. And because he had confidence at that time in the Secretary of the Interior, as I had, and, as I believe the Senator from Missouri had, as well as every other Senator in this Chamber.

Mr. REED of Missouri. What facilities were necessary if the oil remained in the ground where God Almighty put it? If they just let it alone it would be kept there.

Mr. HALE. Mr. President, let me say——

Mr. REED of Missouri. Just a moment; if it was being drained by wells put down by private parties upon adjoining lands, the Secretary of the Interior was not a well digger any more than was the Secretary of the Navy, and the Secretary of the Navy could have let every contract that was made for putting down offset wells for protection.

But if it was intended, as was worked out, that there should be built great tanks in which this oil should be stored, not beneath the surface, but above the surface, then those tanks were being built expressly for the Navy. They were to be used to supply the ships of the Navy. They were a part of the equipment of the Navy; and to turn them over to the Secretary of the Interior was as foreign to the purpose of the occasion as it would have been to turn them over to a justice of the peace out at the fork of a creek somewhere. That is a wonderful defense! That is a crushing argument! That is a complete thing—he did not have the facilities!

Mr. HALE. I see no objection to that as a defense, Mr. President. The Secretary of the Navy had no facilities in his department to examine into the condition of the wells, to decide what offset wells should be bored, or what oil should be disposed of, or what oil should be kept. The Interior Department did have such facilities.

Mr. REED of Missouri. Then, why did not the Interior Department merely cooperate? Why did they transfer the lands? I will tell you why they transferred the lands—because in the Navy Department there were some great naval officers and a naval board that stood there as determined as so many lions that these oils should not be stolen from this Government, and they protested in language so vigorous as to have been unusual and remarkable. They had to get away from the watchfulness of the Navy Department in order to put this roguish thing through.

Mr. WALSH of Montana. Mr. President, will the Senator yield to me for a moment?

Mr. REED of Missouri. Certainly.

Mr. WALSH of Montana. With the kindness of the Senator, I want to get the record straight with respect to the justification or defense of the Secretary made by the distinguished chairman of the Committee on Naval Affairs.

Secretary Denby did say that he had not the facilities. What he meant was that the Geological Survey, which is a branch of the Interior Department, was equipped with geologists who could advise as to whether the drainage was going on, and the extent of the drainage, and whether it was necessary to take any steps with reference to that matter. The Bureau of Mines was equipped with technical men, who, if drilling was to be done and the oil was to be taken out, were conversant with that character of work. That is what he meant by "the facilities"; but, Mr. President, the testimony of all of the officers of the Navy who had anything at all to do with this matter told us, and there is no dispute about it, that prior to the time when this transfer was made these officers of the Geological Survey and the Bureau of Mines were always willing to cooperate with the officers of the Navy to take care of these reserves; and they had called upon them repeatedly for their aid and assistance, and they always were willing to give it.

Mr. REED of Missouri. Why, of course; and, if they had not been, they then could have gone to the President and gotten an order that would have put them at work. I want to ask the Senator if he approved this transfer and these leases?

Mr. HALE. Mr. President, I do not attempt to pronounce on this transfer and these leases in any way.

Mr. REED of Missouri. The Senator does not? Did not the Senator vote for the joint resolution that was passed here which declared that these leases had been executed in fraud and that they had been illegally executed? Is not the Senator on record with his "yea" vote twice on that proposition?

Mr. HALE. That matter has already been explained to the Senate.

Mr. REED of Missouri. What is the explanation?

Mr. HALE. The explanation is that we voted for it on this side, or, at least, speaking for myself, I voted for the joint resolution because I wanted to see the whole matter go before the courts, in so far as we could have it go before the courts, and in order to have that joint resolution go through I was willing to leave in a preamble which I previously had voted against. By voting against it I think I expressed my opinion of the preamble.

Mr. REED of Missouri. Exactly. Then I understand the Senator. He voted for a joint resolution making these grave charges in order to get a matter before the courts; but he does not believe the recitals in the joint resolution, and so he voted for a false joint resolution in order to get a matter before the courts in a false way.

Mr. HALE. It seems to me that the other side of the Chamber shows that it does not like our having voted for the joint resolution.

Mr. REED of Missouri. Oh, we like it very much; but we do not like to have a man welsh on his own vote within 60 hours after he cast it.

Mr. HALE. I explained it at the time.

Mr. REED of Missouri. We do not like to have a man vote for a solemn recital of facts and then say he did it with a mental reservation. The old "mental reservation" subterfuge was played out a good many years ago, when men would take an oath and then have a mental reservation that they did not mean it. I did not know that that doctrine had been imported into the United States Senate and was a guide for official conduct when we come to cast our votes here.

Mr. HALE. I am entirely willing to abide by what the RECORD shows transpired at that session of the Senate.

Mr. REED of Missouri. It shows that the Senator from Maine voted for the joint resolution, and now he says he did not believe in it, and so we understand that he is for the transfer, he is for these leases, he is for this transaction. The Senator stands in defense of Denby, and likewise he repudiates his vote against Fall.

Mr. HALE. Mr. President, on the contrary I have said that I do not attempt in any way to pronounce on these leases whether they were legal or illegal, nor do I think that it is within the province of the Senate to pronounce upon them. I have not defended Mr. Denby. I have simply put into the RECORD remarks that he himself made.

Mr. REED of Missouri. Very well.

Mr. ROBINSON. Mr. President, will the Senator yield to me?

Mr. REED of Missouri. I yield to the Senator from Arkansas.

Mr. ROBINSON. I should like to ask the Senator from Maine a question. He has, no doubt, read the testimony taken before the Committee on Public Lands and Surveys relative to this subject, and he has heard the whole question debated in the Senate for a long time. Does the Senator from Maine think that the action of the Secretary of the Navy in initiating the Executive order and in inspiring, as he himself says in his testimony, the Secretary of the Interior to seek control of the naval reserves, was in accordance with law?

Mr. HALE. As I have said before, Mr. President, I do not attempt to decide whether it was in accordance with law or not.

Mr. ROBINSON. Then, after the Senator has read the testimony and heard the subject discussed at length in the Senate, he has no opinion upon it. Then I want to ask him why he voted for a solemn declaration that it was in violation of law?

Mr. HALE. I have already explained that matter to the Senate.

Mr. ROBINSON. The Senator may have made an explanation, but nobody except himself understands it, and he has not been able to communicate the explanation to any other mind.

Mr. REED of Missouri. Mr. President, the Senator said he voted with a mental reservation. I should like to know if his statements now, on the floor of the Senate, are made with a mental reservation?

Mr. HALE. The Senator from Maine made no statement about a mental reservation.

Mr. REED of Missouri. But the Senator said he voted for a thing and did not believe in it, and he voted for it for the purpose merely of getting it before the courts; so he had a reservation. I should like to know if the Senator's statements now are made with a reservation?

Mr. HALE. I do not know of any reservation.

Mr. REED of Missouri. Very well; and there is no reservation to the last statement the Senator makes? That goes. [Laughter in the galleries.]

The PRESIDING OFFICER. Quiet must be maintained in the galleries.

Mr. REED of Missouri. Mr. President, I was referring to the secrecy of this period between April 1 and April 15 when unable to obtain any definite information, the Senator from Wyoming [Mr. KENDRICK] introduced his resolution demanding information concerning the Teapot Dome.

Running along parallel lines with this transaction was the contract for work in Pearl Harbor which had to do with the carrying out of the scheme Doheny and Fall and Denby had in mind.

On February 15, or 12 days after Sinclair had written, offering to lease Teapot Dome, the Bureau of Mines sent out notices calling for bids on the Pearl Harbor storage facilities. It would probably take the interval between February 3, when Sinclair wrote to Fall, and February 15 for the Bureau of Mines to get out the notices.

On April 15, three days after Denby had signed the lease to Sinclair, the Bureau of Mines opened the bids for the Pearl Harbor work.

Thus, the transactions were running along at the same time and were evidently part of the same general scheme. Sinclair and Doheny were alike to be taken care of at one and the same time. Secrecy was very necessary in that kind of a transaction.

April 18, the Assistant Secretary of the Navy replied to the Senate resolution asking for information by substantially repeating the statement that had been given to the press; that is to say, he gave no information of value.

Fall knew of the Senate resolution. Denby must have known of the resolution. Why was not the information frankly and candidly given? Concealment is an ordinary badge of fraud. Concealment by public officials is almost invariably evidence of fraud.

The reason for this concealment is apparent. The deal was not yet completed. On April 18 Finney, Acting Secretary of the Interior Department, notified the Pan American Co.—that is, Doheny—that the Government would accept one of his bids. This was the second bid or proposal, and gave him a death grip on reserve No. 1.

April 21, Finney and Denby signed letters to the President of the Senate, which admit that for more than a year the Secretary of the Interior and the Secretary of the Navy had been jointly considering the disposition of the naval oil lands. This letter ends all pretense that Fall is alone responsible and that Denby did not know what was going on. The letter is found on page 3 of the record. I do not pause to read it.

On April 25, 1922, in compliance with the arrangement of April 18, Denby and Fall signed the formal contract with the Doheny company—the Pan American. The two deals were complete. The jobs were done. Doheny and Sinclair were, as they thought, secure in the possession of their loot.

The market had probably been played to the limit, but as to that I can not say with certainty. Publicity was now possible. Accordingly, on April 28, Finney sent the Teapot Dome contract to the Land Commissioner.

For nearly 30 days they secretly worked out this deal. For nearly 30 days they had known they were acting in defiance of the will of the Senate, as expressed, at least by the offering of resolutions and by inquiry. For nearly all of that time they were working out the details, until they had brought this transaction to a consummation, and after it had been consummated and these lands were gone forever, as they believed—but we hope otherwise—they then filed their papers, so that publicity was possible.

April 29 the Senator from Wisconsin [Mr. LA FOLLETTE] offered his resolution calling for copies of all leases and demanding an investigation. It can not be said that the Senate, or at least two of its Members, the Senator from Wyoming [Mr. KENDRICK] and the Senator from Wisconsin [Mr. LA FOLLETTE], were not vigilant.

June 3 Fall wrote to President Harding giving his version of the facts and forwarding to him the files which had been asked by the Senate.

Here is a significant thing. It is claimed the President was consulted all the time. If he was consulted all the time, and knew all about the matter, why was Fall's letter, so labored in its argument and so infinite in its detail, sent to him? It was doubtless to persuade the President to stand by something that the President, I believe, had never fully understood. If he did understand it, I should be sorry to learn the fact.

June 7 President Harding sent the data to the Senate with a letter of commendation, approving the policy without qualification. The last lines of this statement tie Denby into the transaction and show his full responsibility. I am sorry to add they also commit President Harding to the enterprise. But I can not make the statement without saying that I am sure that President Harding had been deceived, and that certainly he did not know of the ranch deal and cattle deal or any other deal. I quote from President Harding's letter:

> I think it is only fair to say in this connection that the policy which has been adopted by the Secretary of the Navy and the Secretary of the Interior in dealing with these matters was submitted to me prior to the adoption thereof, and the policy decided upon and the subsequent acts have at all times had my entire approval.

Surely President Harding did not know of the ranch and $100,000 transactions.

This seems to conclude the pertinent parts of the story, except that in August, 1923, Fall secured from Sinclair $35,000.

I do not pause to follow his explanation. It would seem, at least, he had served Doheny so well that Doheny kept him in his employ after he had retired to private life. It may have been that the money was paid for services rendered after he went out of office. I think it came largely because of services rendered while in office.

What a story is disclosed by this dry recital of evidence! How the facts dovetail together! How certainly do they disclose a deliberate plan, well laid and secretly carried out, to rob the people of these vast reservoirs of oil! And this regardless of the fact that the first line of defense of the country—the Navy of the United States—with its brave fighting men, may in the future be sent to the bottom for lack of proper naval fuel!

The resignation of Fall to take the Secretaryship of the Interior, the attempt to illegally transfer the oil lands from the Navy Department to Fall, who intended to turn them over to his fellow conspirators, the secret meetings with these conspirators, the failure to comply with the law regarding the letting of the lands, the making of contracts without authority of Congress involving the expenditure of over $100,000,000, the unconscionable character of the contracts, the secrecy employed while the leases were being made, the false information given to the public, the insolent carrying out of the details even while the Senate was demanding information and an investigation was impending, the sudden wealth of Fall, the falsehoods told by him regarding the source from which he obtained his money, the strange transaction touching the checks disclosed by McLean—these facts grouped together demonstrate guilt and crime. They further prove beyond the peradventure of a doubt that Denby connived at every one of these illegal acts; that he failed to perform his duty under the law; that he was hand in glove with Fall in everything save the ranch deal and the $100,000 deal, and in them alone is his conduct to be distinguished from the conduct of Albert Fall.

But the facts adduced prove more than the guilt of Fall, of Doheny, of Sinclair, and of Denby. They indicate a lowering of official ethics and a debasement of official morals. The conduct is such as would have been impossible a few years ago. At a time when we had regard for the Constitution, when we sought to preserve the independence of the coordinate branches of the Government, what President would, without authority of law, have dared to issue an Executive order transferring property of incalculable value from a department by statute charged with its conservation to another department possessing not a whit of authority to take or hold or manage the vast estate. What Secretary of the Navy would not have instantly resented such presidential interference with and humiliation of his department, and, if need be, have resigned as a protest? What Secretary of the Interior would have had the insolence to demand the possession of vast properties to which he was not entitled? What Secretary of the Navy would, like a cringing coward—nay, like a slave kneeling before his master—have permitted the Secretary of the Interior to write the very orders and letters he was to sign? One of the most humiliating circumstances connected with the performance is that the Secretary of the Navy appears to have recognized his own intellectual incapacity to write a plain order or compose a simple letter.

But, again, what Secretary of the Navy and what Secretary of the Interior in the years gone by would have dared enter into a secret contract, would have dared let great public holdings without bidding and in violation of law, or would have dared or dreamed of withholding information regarding the business of their offices from Senators of the United States properly inquiring? Which of them would have conspired with freebooters to rob the people?

I repeat that the performance is only possible because there has been a lowering of the standards of official rectitude in the city of Washington. The process has been going on for years. Its development has been the occasion of many sober thoughts on the part of those who love the country and who adhere to old standards and old policies.

During the Taft administration Ballinger was guilty of crooked conduct. Instead of meeting with universal condemnation he was—doubtless for partisan reasons—defended by men in public life, and among others by Senator Root and by Mr. Denby. But the people of the United States did not defend Ballinger, and a wave of public indignation compelled his retirement.

In the early days of President Wilson's administration we sought to drive the lobby from Washington. An investigation was held to which I contributed whatever ability I had. And it appeared—for the time being, at least—that the herd of lobbyists who had been secretly operating in the Capitol had been driven from its precincts.

Then came the war, and the buzzards gathered again at the Capitol to pick the bones of the Government. A different atmosphere seemed to prevail. Birds and beasts of prey came in swarms. They demanded their share. Representatives of great manufactories insisted upon the right to tax the people for their benefit. They asserted that the election had been won by capital and that capital was entitled to the fruits of victory. I saw them write into the tariff bill almost their every demand. They were insatiate. Their greed knew no bounds. They demanded that taxes be levied upon the people running from 30 to 300 and 400 per cent.

How shall we distinguish in principle between the man who seeks to levy a tax by which he can rob all the people of the land and the conduct of a man who corrupts an official and obtains a lease of the public domain?

Political debts were boldly paid. When we were taxing everything wrought by the hand of man, from candy and dolls for children to shrouds for the dead, Wrigley, who had contributed immensely to the Republican campaign fund and who had driven practically every gum manufacturer out of business, was exempted from an excise tax upon his gum. He had bought and paid for the privilege. But he paid the money into the coffers of a political party instead of into the Treasury of the United States. And he made a shrewd bargain. They had a banquet of men to finance the Republican Party. I am informed that this chewing gum prince, who has ruined more good teeth than all of the dentists of the earth will ever be able to replace, stood up in the meeting and declared he could not talk, but he would give as much money as all of the other men at the banquet. Well he might. He knew he would receive his pay. I inquire what is the difference in morals between a man buying exemption from his just dues to the Government and a man buying a valuable contract from a governmental Secretary?

Andrew Mellon was placed in the position of the Secretary of the Treasury. I submit that he holds his office in violation of the law which prohibits men engaged in trade from holding that high position. At the time he assumed his seat he was a director in 68 great banks and industrial companies, and was the chief owner of one of the greatest trusts on earth. He, too, is heavily interested in oil. There is scarcely anything the earth produces or man creates which does not pay its tribute to this Secretary. He writes the tax laws and he sought in the last Congress to reduce the income taxes on 12,000 millionaires by the sum of $90,000,000? How much did that mean to him and his associates? If Mellon's scheme could have been carried through, the saving to himself and his associates would have run high in the millions. But this does not seem to shock the public conscience.

What is the difference between Mellon's attitude and that of Doheny? If Mellon can write the tax laws, why should Doheny not be permitted to write the oil laws? If Mellon can administer the taxes, why should Doheny not be permitted to administer the oils? The difference in their situation is that Mellon acts directly as a Cabinet officer. Poor Doheny had to act indirectly through a Cabinet officer. Mellon gets paid for acting as a Cabinet officer. Doheny had to pay a Cabinet officer for acting. Here we have the nefarious examples of men deciding cases in which they have a direct interest and who, therefore, occupy positions abhorrent to every sense of justice and every principle of law and honor.

Scandal has followed scandal. The Senate solemnly found that Newberry had secured his seat "by means destructive of the Republic," and then solemnly resolved to give him the fruits of his fraud by seating him in the Senate. In the presence of such an example, how can it be expected that standards of official integrity shall be maintained?

The soldiers returned from the war. People poured out their money to care for the maimed and crippled. The distribution of that sacred fund has been involved in the grossest scandal.

There has been an epidemic of tax dodging and of bootlegging. Prohibition enforcement officers have been discharged by the scores and the business hushed up, but some have been convicted.

The Governor of Illinois misuses the public moneys, defies for the while the courts, and finally goes to trial before a jury commonly believed to have been fixed and is acquitted. The Governor of Indiana embezzles the revenues and stands indicted. The moral fiber seems to have decayed.

Going along with that condition has been a debasement of officers out of a job. Some of these men had held high places. They had been honored by the people and by virtue of these distinctions were in a position to influence their former associates. No man of honor ever yet sold for money the influence the people gave him. Here again is conduct repugnant to every rule of fair dealing and in principle violative of the law. Even in private life the servant is not permitted to quit his master and then use against the master's business the information he obtained while so employed. Neither is he permitted to interfere with the servants who remain with the master. He is not allowed to use the secrets obtained in his master's employment. But such a code of morals is apparently too high for the present-day ex-officeholder. This fact was readily discerned by the shrewd Mr. Doheny. He seems to have specialized with ex-officers. When they came to him for employment the presentation of a certificate of resignation or retirement was as important as a union card to a mechanic in search of a job. There was no depth to which Doheny would not go in his search for instruments of influence. He even descended to George Creel and paid that gentleman $5,000 to attempt the impossible task of influencing Josephus Daniels.

In justice to Mr. Creel I ought to state what I understand has been his defense. It is that while he took the $5,000 and undertook the job of trying to influence Daniels, he resigned as soon as he discovered that he was being paid with Doheney's money. A remarkable defense!

> As well the painted courtesan might boast
> I take no tainted money at my door, and so my house is chaste.

I make no war on wealth. But, I insist that wealth shall not make war upon the country. I would hang before the American people great prizes, but I shall insist that those who win shall not employ their wealth to destroy weaker men, to cheat the people, to defraud the Government, or to bribe public officials.

Dark as is the picture upon which our eyes are centered, it happily does not present a general view of public or private morals. The great mass of our people, rich and poor, are as secure in their rectitude as were our fathers. The dark spot is here in the Capitol. The people will insist, the people ought to insist, that every rogue shall be punished; that every officer who has failed in his duty shall be discharged; that every lobbyist, trickster, and crook shall be expelled from the seat of Government; and that only those who are devoted to the general weal and who will bring to it the highest attributes of heart and soul shall sit in places of responsibility and power.

Mr. EDGE. Mr. President, I desire to speak very briefly on the pending resolution. It appeals to me that the difficulty with the Senate, as its Members face this great responsibility, is that under a latter-day policy the Senate resolves itself into the dual rôle of a judge and a prosecutor. I might say, so far as the Denby resolution is concerned, we are likewise taking upon ourselves the responsibility of a jury.

Mr. President, in view of the possible contingency which the Senate of the United States is facing—and as to that I do not speak with assurance, although if half what has been said is true they are facing and should face possible impeachment proceedings—it is inconceivable to me that this body, their duty being clearly defined under the Constitution, should absolutely disqualify themselves from performing that service as defined by the Constitution.

Under the Denby resolution the Senate of the United States asks the President of the United States to request the resignation of the Secretary of the Navy. In my judgment, any man of honor, any proud man, would much prefer to be in-

dicted and have his case tried before an American jury than to be convicted by a legislative body without even having the opportunity to appear for himself. Under our judicial system we accept the verdict of a jury as warranted by the evidence, but by this resolution we attempt to declare a verdict, notwithstanding we have sent this entire matter to the courts to adjudicate. We attempt to announce a verdict without the evidence, only upon the individual opinion of Senators, who, sincere as I do not doubt them to be, propose to act upon their individual opinion of law or opinion of fact without affording the accused an opportunity of a trial at all.

Mr. President, even in a police court—or in a court a trifle higher in its standing perhaps than a police court—jurors are summoned; attorneys for the prosecution and the defense are given the opportunity to ask that a juror be disqualified because he may previously have formed an opinion in the case, or because he may have read a newspaper describing the crime, whatever it may have been; but the Senate of the United States, the highest tribunal in the country, sitting as a court, as we are supposed to sit in the case of impeachment proceedings, express their judgment of guilt or innocence in advance of a trial. Yet under the Constitution we are supposed later, if impeachment proceedings shall be brought by the House of Representatives as provided by the Constitution, to sit here as solemn jurors hearing the evidence, not having prejudged or formulated any opinion on any happening that has gone before, and to render a verdict as warranted by the evidence. Apparently, Mr. President, Members of the Senate consider themselves immune, and that their judgment can not be warped by debate or prejudice engendered by argument or political division or the exigencies or demands of politics.

I am going to refer only in passing to more recent happenings that have been brought out by the committee now investigating this deplorable scandal. I listened to the address of the Senator from Missouri [Mr. REED] with close attention, to a considerable extent, though not entirely, with approval. I noted his reference at the end of his address, which I assumed was to evidence recently brought out at the hearings before the committee. I do not propose to pass upon that evidence, Mr. President. I do not know anything about it, neither do I think it is the responsibility of the Senate to pass on that evidence. The country will do that. It is the province and the duty, as I understand, of the Senate of the United States to hold investigations, to give the committees authorized to conduct them all the power necessary in order that they may bring before a court for final justice any man who has offended against the laws of the country, especially a public official. In this case, let the committee be given all that power; let us enlarge the resolution, if necessary, as I believe we have done by action to-day—at least we have extended the resolution—but after doing that, and after passing, as we did only a week or so ago, by unanimous vote, a resolution which delegated to the President of the United States power to appoint special attorneys, I believe later to be confirmed by the Senate, do not then let us try the case on the floor of the Senate; do not let us morally disqualify ourselves from the constitutional responsibility we have.

If these men are guilty of the things or, as I have said, one-half of the things with which they are charged, then the Senate later should sit as a jury and hear impeachment proceedings brought in the proper way under the Constitution. The Senate is the last body which should trespass upon the Constitution by deliberately disqualifying its opportunity to give a fair and unbiased judgment. We are proposing to act as a court, as a prosecutor, and a jury if we attempt to pass a resolution such as that which is now pending before the Senate.

I have said that, in my judgment, any honorable man, any proud man, any man who has occupied a high position among his fellows, would much rather stand before a court under indictment than to have a resolution such as that now pending here passed without being given his day in court. Such action is un-American. If the necessities of political advantage have brought us to this, they have brought us to a very low level, in my judgment and, I believe, in the judgment of a great mass of the people of this country.

I know they are indignant at what has happened; so am I. Everyone has the right to be indignant at what has happened, but I do not know any better manner in the world to get down to the facts than to subscribe to what we have always subscribed, namely, that the courts of the land should act upon and determine such questions as we have had presented to us. The courts have ample power to proceed.

I recall a few days ago my good friend, the Senator from Montana [Mr. WALSH], whom I esteem and whose splendid work in this connection stands out boldly, spoke in connection with the resolution offered by the Senator from Nebraska, which provided for a summary decision, as I recall, on the part of the Senate as to the legality of the leases and contracts affecting the naval oil reserves.

The Senator from Montana opposed that resolution on the ground that under the terms of the original fundamental law or Constitution as it might be called of the country—the Magna Charta—everyone had a right to his day in court. Yet the Senate of the United States proposes to prejudge an action to be prosecuted in the courts and to deny an honored citizen and official, although he may have made mistakes, his day in court.

It is inconceivable to me, Mr. President, that the Senate of the United States, with all its responsibilities and with all its powers, should suddenly place itself in the position of being merely a supergrand jury, asserting a power that no grand jury has ever asserted or assumed, namely, the power, after finding an indictment, of convicting and of sentencing. Our country can not prosper in that manner; we can not proclaim liberty throughout the land; we can not stand in the position we have tried to assume before all the nations of the world if, guilty as the Secretary of the Navy may be—and I do not know as to that, and I do not propose to discuss that question—we take action of that character and claim that it is our duty to do so in order to protect the interests of this country.

Mr. BRUCE. Mr. President, I rise for the purpose of explaining in just a word or so why I feel constrained to withhold my support from the pending resolution. Of course the line of least resistance for me would be not to abandon my party colleagues on this side of the House. The easiest thing in the world is to follow a bellwether over the fence, and sometimes it proves, on the whole, the best thing to do even when the bellwether lands you in a ditch on the other side of the fence. But I have been accustomed all my life, I am glad to say, in cases of this kind to reach the soundest conclusion that I can without regard to any secondary or ulterior considerations whatsoever.

A day or two ago, as the Senator from New Jersey [Mr. EDGE] has stated, reference was made by the distinguished Senator from Montana [Mr. WALSH] to Magna Charta, and particularly to that provision of Magna Charta which says that every man shall have his day in court. Rather, Mr. President, would I see every plank that has ever been inserted in a Democratic platform shivered into a thousand pieces than that one single precious word of that immortal document should be lost.

I am opposed to this resolution because it invades a province of authority that belongs exclusively to the executive department of the Government. The Senate has no constitutional power to remove any public officer of the United States; it has no constitutional power to unite with the President in the removal of any such public officer; it has no constitutional power even to make any suggestion or recommendation looking to the removal of any such public officer.

Early in the life of the Government it was maintained by a very respectable body of public opinion that the President could not remove a public officer to whose appointment the Senate had advised and consented without the concurrence of the Senate. That, indeed, was the view of the Federalist. Very shortly after the formation of the Government, however, a decisive vote in the House of Representatives established the contrary doctrine, and from that day to this the doctrine so established has been followed in the constitutional practice of the Government, except during the hard and unconstitutional times when the passions of the Civil War were rife, and Congress was thirsting for the blood of Andrew Johnson.

Even as far back as 1839 the Supreme Court of the United States said, in the case of Ex parte Hennan, in Thirteenth Peters, that in the beginning of our Government there had been an idea that the concurrence of the Senate was necessary in the case of the removal by the President of public officers appointed by him with its consent; but that this idea had long yielded to a fixed practical construction of the Constitution, which referred the power of removal in such cases to the President alone.

I say, therefore, without hesitation, that this resolution evidences a mere usurpation of authority. At the most, it is a mere brutum fulmen, a vain stab in the air. Except as a matter of simple good-natured comity or personal courtesy, the President is under no obligation to pay any heed at all to it. If he were a churl he would be justified, in point of law, though not of course in point of good taste or good manners, when it was laid before him, in saying to the Senate curtly, "You attend to your business and I will attend to mine."

Just as I would be quick to repel any encroachment by the President on the jurisdiction of the Senate, so I am loath to

see the Senate encroach on the authority of the President; and even if the Senate had some color of right to adopt such a resolution as this, I think it would be a grave mistake for it to adopt it.

We all know that there is a reasonable measure of deference due by each of the three great departments of our Government to the other two; and only by exhibiting that measure of deference can collisions between them and all the acrid misconceptions and misunderstandings that result from such collisions be avoided. Why, therefore, should we not leave to the President this question as to whether or not Mr. Denby should be removed? I am almost prepared to say that there has never been a President of the United States to whom I would not have been willing to leave such a question. Certainly I am not unwilling to leave it to President Coolidge. I have heard nobody impute to him a want of intelligence; I have heard nobody impute to him a want of courage; I have heard nobody impute to him a want of official conscientiousness. Why, therefore, I repeat, should he not be allowed a reasonable opportunity to examine all the circumstances surrounding the connection of Secretary Denby with the Teapot Dome scandal, and to say, without fear or favor, whether, in his judgment, the Secretary should or should not be removed?

Mr. McKELLAR. Mr. President, will the Senator yield?

The PRESIDENT pro tempore. Does the Senator from Maryland yield to the Senator from Tennessee?

Mr. BRUCE. Oh, yes.

Mr. McKELLAR. Under the same reasoning, why should we not have left to the President the prosecution of Mr. Fall, without let or hindrance?

Mr. BRUCE. Not at all. Of course, the Senate is clothed with ample power to institute such an investigation as that into which Fall became involved. That power is an entirely different one from an attempted power to remove a public officer of the United States. Congress, after all, of course is the great inquisitorial body under our political system.

So, Mr. President, with due deference to the Senator from Missouri [Mr. REED]—who seems to think that everyone is a driveler who reaches such a conclusion—I say that the proper thing for the Senate to do, if it believes that Secretary Denby is in truth guilty of some grave offense or dereliction of duty, is to have him impeached by the other House. Then the Secretary would at least have some opportunity to defend himself, because it seems to me that the idea that the fact that he was called as a witness by a Senate committee in the Teapot Dome investigation afforded him any real opportunity for self-defense is one that scarcely requires examination.

If impeachment proceedings were instituted, specific charges would have to be filed against Secretary Denby, which has not yet been done. Those charges would be prosecuted by managers appointed by the House, they would be tried before the Senate, and they would be disposed of by the Senate after Secretary Denby had enjoyed the privilege of employing counsel and answering the charges and vindicating his honor as a man. That is the constitutional thing to do, if the Senate wishes to do anything at all; that is the just thing to do; that is the manly thing to do.

Why, a true sportsman is generous enough to give even a crouching partridge or fox a chance for its life. Surely the Secretary of the Navy of the richest and the most powerful country in the world is entitled to at least an equal measure of consideration.

Yet impeachment apparently is not proposed. On the contrary, as the Senator from New Jersey [Mr. EDGE] has said, the Senate is doing everything that it can to render it practically impossible for it to sit as an impeachment tribunal. At present, apparently, the idea is simply to have the Senate call on the President to do something that the Senate has no right or authority to call upon him to do.

Mr. WALSH of Montana. Mr. President, will the Senator suffer an interruption?

The PRESIDENT pro tempore. Does the Senator from Maryland yield to the Senator from Montana?

Mr. BRUCE. Certainly.

Mr. WALSH of Montana. I inquire of the Senator if he concurs in the view expressed by the Senator from New Jersey that the Senate would disqualify itself from acting as a court of impeachment if it passed this resolution?

Mr. BRUCE. Not legally speaking, but practically, yes.

Mr. WALSH of Montana. I was not speaking about the practicability of it; I was asking if the Senator from Maryland agreed with the proposition laid down by the Senator from New Jersey?

Mr. BRUCE. It is not necessary for me to go into that. I say that the Senate is involving itself in practical embarrassment, is tying its hands, as an individual often ties his hands, by pursuing some inconsistent course of conduct.

Mr. WALSH of Montana. Will the Senator answer the question? Does he agree or does he not agree with that view?

Mr. BRUCE. I really did not hear very distinctly the statement made by the Senator from New Jersey.

Mr. WALSH of Montana. The Senator from New Jersey [Mr. EDGE] asserted that if this resolution were passed by the Senate every Senator who voted for it would disqualify himself from sitting in case of an impeachment.

Mr. EDGE. Mr. President, will the Senator yield for a moment?

Mr. BRUCE. I yield.

Mr. EDGE. I think I made it very clear, or at least I tried to make it very clear, that I believed that if we were not disqualifying ourselves legally, we would absolutely disqualify ourselves morally.

Mr. WALSH of Montana. But the Senator did not say so. The Senator said we would disqualify ourselves.

Mr. EDGE. May I ask the Senator his point of view as to the moral disqualification?

Mr. BRUCE. Mr. President, I am willing to yield to one Senator, but I can not yield to two. In a moment I might have three on my hands. I do not propose to be drawn off into any collateral field of inquiry.

I was going on to say that nobody has a higher respect than I have for the legislature within its own true province. We all know that without the free play of the legislative will there can be no such thing as a free country. The very passions of a legislature, even its caprices, its sensitiveness to flurries of popular excitement, its sleepless partisanship, all tend to promote that vigilance which has been so often and so truly said to be the price of liberty. But the poorest judge in the world, let me say—and I have been associated all my life in one way or another with legislative bodies—is a legislative assembly.

If my public reputation were at stake, as the public reputation of Secretary Denby is, at an hour of great excitement, when partisan feeling was running high, believe me, Senators, when I say—and I say it without the slightest disrespect—I would rather be tried by the obscurest judge in the State of Maryland or any other State of the Union than by the Senate of the United States.

It has been said by the Senator from Massachusetts [Mr. LODGE] that this resolution is a mere application of lynch law. I do not like to use that term. It might bring upon our backs again the gentleman from Missouri [Mr. DYER] over in the House and his antilynching law and another violation of all proper constitutional principles. I do say, however, that the barbarous species of justice formerly known in Scotland as Jedburg justice will compare very favorably, in my judgment, with this resolution. Jedburg justice was at least indulgent enough to try a man after he had been executed, but this resolution does not propose to try Secretary Denby either before or after execution. It is a mere bill of attainder. Indictment, conviction, sentence, legal and moral ruin, are all huddled in this case within the folds of a single piece of legislative parchment, Secretary Denby is to be condemned without being heard. He is to be denied the privilege that is accorded by the courts to the meanest wretch in the land.

No! I think that the Senator from Missouri [Mr. REED] was right, though it seems to me that he did not afterwards altogether reck his own rede, when he said that this question rises far above the level of partisanship. More and more has that thought been impressed on me as I have sat here day by day hearing the miserable Teapot Dome scandal unfolded, largely through the tireless industry and searching ability of the distinguished Senator from Montana [Mr. WALSH].

At times I have wondered where it would all end, especially when I have seen the helpless legs and wings of Democrats floating off in this flood of rancid oil along with the helpless feet and wings of Republicans. Sometimes I have been reminded of a story that is told of Thaddeus Stevens, the bitter Republican partisan. It is said that on one occasion when a contested election case was pending in the House, and the time came to vote, he did not know which of the two men was the Republican and which was the Democrat, so he turned to a Member of the House sitting near him and asked him, "Which is our damned rascal?" Of course, like the Senator from Missouri, I am in favor of bringing every "damned rascal" connected with the Teapot Dome scandal to book—every one—but I believe in bringing him to book only in the proper, constitutional way.

Many years ago John Randolph, of Roanoke, was speaking on the hustings in that portion of Virginia which is so dear to my heart and to the heart of my friend the junior Senator

from Virginia [Mr. GLASS], and was fiercely assailing one of his opponents when a man in the audience before him spoke up and said, "Mr. Randolph, I would not treat a dog so." That is my feeling when I read this resolution, so violative of every true constitutional principle, so abhorrent to the fundamental rights guaranteed to the citizens by the law of the land.

Mr. PEPPER. Mr. President, it must be obvious to all men that those who have spoken recently in the course of this debate are quite right when they say that the people of the country are at this moment suffering from acute shock. The credit of public men has received a staggering blow. In the eyes of multitudes of people, public men here in Washington, quite irrespective of party, are looked upon as badly bespattered. Something like an explosion has occurred, sir, very near the foundations of the Capitol, and at such times it seems clear to all of us that the call is for patriotism rather than for partisanship.

I take it that at a moment like the present we here in this Chamber are derelict in our duty if each man of us does not look inward as well as outward. I believe that every one of us should reexamine his own moral structure, that those who seem to stand may take heed lest they fall. In the course of a debate such as this, Mr. President, where many things have been said in hot blood which no doubt will be repented at leisure, our business is to pause, review the record calmly, decide what we ought to do, and then move forward in the line of duty.

The Senate of the United States, in a case of this sort, has grave responsibilities, and we have only begun to discharge them. This body is both a legislative body and a court. As a court we may be called upon, before this terrible transaction passes into history, to try more impeachments than one, and if the House of Representatives shall confront us with that awful responsibility, every Senator must take oath in the presence of Almighty God to try impartially and according to law any case presented to this body.

I quite agree with the Senator from New Jersey [Mr. EDGE] that it would be at least an embarrassment to act faithfully in the discharge of that oath if a man had previously placed himself on record as convinced of the guilt of the man who was being tried, but I quite agree with the implication in what was said by the Senator from Montana [Mr. WALSH], that one of the incidents of being both a legislative body and potentially a court is that we may in a measure be compelled to form judgments for legislative purposes and do the best we can to keep our minds clear to try an impeachment if it comes our way. But certainly, while that unpleasant necessity may present itself, we should not seek it, and we should avoid that embarrassment when we can do so with fidelity to our legislative duty.

Mr. BAYARD. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Pennsylvania yield to the Senator from Delaware?

Mr. PEPPER. I yield.

Mr. BAYARD. May I call the attention of the Senator, who is a learned lawyer, to the practice of the courts in murder trials. When a man is put upon his voir dire he is asked whether he has formed and expressed an opinion touching the guilt of the prisoner at the bar. If he says, "Yes," the court then asks him if he has formed and expressed such an opinion that he would be unable to give a true verdict in the event of the evidence warranting it. Why are we here in this body unlike such a prospective juror, under the circumstances?

Mr. PEPPER. May I ask the Senator, if it be assumed that we are like that, what inference he would draw?

Mr. BAYARD. I judge from the argument the Senator has been presenting that he thinks we are disqualified from voting affirmatively on the pending resolution.

Mr. PEPPER. Mr. President, owing no doubt to my lack of clarity of statement, the Senator has misunderstood me. I have expressed agreement with the proposition that in trying an impeachment I should feel myself embarrassed if it had become my duty previously to express a final conviction respecting the guilt or innocence of the accused; but when the Senator rose I had scarcely finished the other observation, which was that it might in the course of the discharge of senatorial duty be necessary for me to face that embarassment, but that I should not seek it if there were any honorable way in which I could avoid it with due regard to my legislative duty.

In other words, if I must pass judgment in the Senate, sitting as a legislative body, upon a case which may hereafter come to us as a court through proceedings by impeachment, then I shall do it, and I am not disqualifying myself from thereafter sitting as a juror; but, sir, unless there is no escape from my legislative duty in the premises I shall not seek to put myself in that embarrassing position, and my own view is that we would be courting embarrassment by passing the pending resolution, without in the least degree advancing the ends of justice or promoting the public safety.

Mr. KING. Mr. President——

Mr. PEPPER. I yield.

Mr. KING. I rise in no controversial spirit, but for information. I would like to ask the Senator if he does not differentiate between conduct justifying impeachment and conduct which might not justify impeachment and yet would be so culpable, so charged with dereliction of duty, as to justify the Senate in withdrawing their confidence and support of a Cabinet officer. In the latter case, believing, perhaps, that there was no ground for impeachment, but believing that the offender, or the person charged, had been guilty of neglect that would disqualify him from further useful service to his country, does the Senator think it would be improper for the Senate to notify the President that they lacked confidence in that man with whom they were in constant contact, as with the head of a great department of the Government?

Mr. PEPPER. Mr. President, I answer the Senator by saying that he has made a perfectly intelligible distinction between varying degrees of official unworthiness and delinquency, but one of the troubles I have with this resolution is that there is nothing in it which indicates the grade of the offense which the Senate is charging against the Secretary of the Navy. If this resolution, sir, is passed, and if the President acts upon it, and if finally we find the facts, of which we are not now in possession, it may turn out that the resolution was bitterly unjust to Secretary Denby, or conceivably it might turn out to be so inadequate as a punishment for guilt as to have been a waste of the time of the Senate to concern itself with its discussion.

Mr. NORRIS. Mr. President, may I interrupt the Senator?

Mr. PEPPER. I yield to the Senator.

Mr. NORRIS. I am interested in the Senator's answer to the question of the Senator from Utah, as well as in the question. The Senator states that the Senator from Utah has made plain the difference between the two cases, as I take it, one that might be sufficient to justify a resolution like this, and another one, of a deeper grade, involved in an impeachment proceeding. I would like to call to the attention of the Senator from Pennsylvania, as well as to the attention of the Senator from Utah, that in an impeachment proceeding there is no grade. The language of the impeachment provision of the Constitution is so broad that the House can impeach for and the Senate can find guilty of any offense, and on impeachment proceedings we might find the defendant guilty where admittedly he had committed no offense whatever under the law.

Mr. PEPPER. Mr. President, I am well aware of the wide range of misconduct which may be made the subject of impeachment. I am well aware that it has been decided again and again that there can be no limitation upon the power of the Senate to adjudge a man guilty of offenses for which he has been impeached on the ground that they are not impeachable offenses, and I am willing to make the concession to the Senator from Utah that if a resolution were propounded calling upon the President to deal summarily with an executive officer for misconduct not adjudged by the Senate to be within the realm of impeachable offenses we should have a different case from the one before us. What we have before us is a blanket resolution, applicable to every conceivable grade of official misconduct, and I repeat my assertion that after the whole case is closed and passed into history it might well turn out that the resolution we passed was either bitterly unfair or so grossly inadequate as a vindication of outraged justice that it would have been a waste of our time even to consider it.

Mr. McKELLAR. Mr. President——

Mr. PEPPER. I yield to the Senator from Tennessee.

Mr. McKELLAR. In the latter event that would not prevent Mr. Denby from being liable and subject to indictment, trial, judgment, and punishment in a court of law.

Mr. PEPPER. Of course not, Mr. President. The proposition is not that we, by anything we do, may take a guilty man and place him beyond the reach either of impeachment or of conviction for a criminal offense, but when we act in the dark, with no adequate knowledge of all that may be disclosed by searching and far-reaching investigation, we are liable to stultify ourselves by the failure to make the punishment fit the crime.

Up the present time, sir, the question of our duty as a court has merely been drawn into the debate as a side issue. Hitherto we have functioned only as a legislative body, and we have made a good beginning. An able committee has been in session

beginning its exploration into the darkest recesses of these transactions. Largely as a result of the patient and persistent effort of the Senator from Montana [Mr. WALSH] facts have been unearthed by that committee which indicate the existence of fraud and corruption. We have done well, sir, to confirm what the Executive did when the Executive determined that the interests of the Nation required that the courts should be set in motion. We have gone in the right direction when we have guaranteed to him the facilities for a searching prosecution and investigation of the rights of the public. The courts will be set in motion. If the evidence warrants it, Mr. President, the guilty will be indicted and convicted. Equitable protection will be given to the rights of the United States and the legal rights of the people will be vindicated.

But, all this is by the way. It is aside from our duty as a legislative body. Our legislative duty in the premises is to pursue our investigation relentlessly, to develop the facts, and to tell them to the people. I am in accord constitutionally with the argument made by the Senator from Maryland [Mr. BRUCE] and yet I can not help recognizing that the Senate of the United States is expected by the people to function somewhat as a public forum for the discussion of great public questions and that we must on occasion organize ourselves into a court of inquisition in the public interests. The people in this matter are not going to be satisfied with denunciation by individual Senators. They want the facts. They want to hear from us the truth, the whole truth, and nothing but the truth, and they want it quickly.

What is there before the Senate to which we can point as a discharge of the legislative duty which rests upon us? Has the committee finished its investigation? I think not. Have all the facts been ascertained? I believe they have not been. The Senator from Montana [Mr. WALSH] knows at least as much about the facts of the case as any man in the Senate and I heard him say the other day that he hesitated to express a final judgment on a number of issues because the facts were not yet all in. Whether the committee has finished its investigation or not, is it not true that no report has been made and that no findings have been submitted to the Senate upon the basis of which we can act?

The Senate has organs for the ascertainment of facts. There are the committees of the Senate. The committees of the Senate call the witnesses. They hear their testimony.

They reduce them to the record. They study them. They bring back to us reports, unanimous or by majority and minority, as the case may be. We are not left to gain our information by individual diligence and scrutiny of records that have not come under our official cognizance. We are not bound to take our law and our opinions of legality from the arguments of individual Senators, no matter how able those arguments may be. There is a procedure in these matters in accordance with which the Senate must inform itself in an orderly fashion, and it is through the medium of investigation by committees and the reports of committees submitted to this body in the light of which we are called upon to act.

Take the case of the relation of the Navy Department to this transaction, which is the thing challenged by the resolution. We have passed a resolution reciting that those leases and contracts have been executed under circumstances indicating fraud and corruption. Whose? Albert Fall's, we say. Anyone's else? We do not know; the facts are not before us; the committee has made no report.

Mr. ADAMS. Mr. President, will the Senator from Pennsylvania yield?

The PRESIDENT pro tempore. Does the Senator from Pennsylvania yield to the Senator from Colorado?

Mr. PEPPER. I yield.

Mr. ADAMS. Am I correct in assuming that the legislative body, which is the Congress, is the policy-forming body of the Government generally, and that we as the policy-forming body of the Government have also created the Cabinet offices, and that we have as the policy-forming body directed the carrying out of certain policies? Have we not found by a unanimous vote of this body that the policies so formed have been defied by men holding offices which have been created by this body, and has not the particular member of the Cabinet under consideration said in the face of that, that knowing all the facts he would do over again that which he did? And that being the case, is it not proper that the Senate of the United States should say to the President of the United States, "We think that for the purpose of carrying out the policy, for the purpose of eliminating men from the service who have within the judgment of this body defied the policy established, you should make a change in that office"?

Mr. PEPPER. I know that when the Senator from Colorado was gaining his professional reputation as a trial lawyer he was always anxious to have his questions answered "yes" or "no," so I answer his question "no."

Mr. President, we have nothing before the Senate upon which the Senate may act. There is no conclusion reached in the investigation of the committee, and no report from any committee which can be the basis of our action. In the meantime we have been substituting denunciation for fact finding. The people do not care to hear denunciation by individual Senators. It is very entertaining for those who can sit within the range of the voices of the speakers, but we are sitting here as representatives of the country, and the country wants not denunciation, but facts.

Denunciation began as the denunciation of Republicans by Democrats. That was proper enough. The safety of the people requires that the party in opposition shall seek to hold the majority party responsible for the official defaults of its representatives. The safety of the people, I say, requires it, and our friends on the other side of the Chamber are acting in strict accordance with the theory of our Government when they do what they have done. It is easy for them to overplay their hand. "In Fall's fall, we sin all," is a perversion of an old theological doctrine which our friends on the other side of the aisle have taken upon themselves. That is all right, Mr. President. If, on the basis of the unhappy moral collapse of a sometime friend, you can indict all the Republicans of the country, well and good; but you can not do it and the speakers know that their denunciation is unreal. It is fiat righteousness without any gold reserve of character that justifies denunciation of that sort. In proportion as the vociferousness of denunciation increased, it was noticeable that the gold reserve of character that justified it traveled in the opposite direction on the chart.

I sat with entire equanimity while that was proceeding. I realized that there are only a few strings to the Democratic harp, and I knew that if the angels picked long enough on any one of them it would break—and it broke. Then the denunciation became grandly nonpartisan. But the trouble was, Mr. President, that it was as unreal then as it had been unreal before. Those who shed crocodile tears over the collapse of public men and professed regret for what had happened were obviously delighted when they thought that they had found something upon somebody else.

It is too intensely serious to be treated in this fashion. Denunciation is justified only either by moral character of the highest type on the part of the denunciators or else by an incontrovertible finding of fact upon the basis of which he speaks. What are the facts in regard to the relation of the Navy Department to this transaction? What are they, Mr. President? From the testimony, as I have been able to glean it—because we have other duties in the Senate than to study the records of committees of which we are not members prior to the time when they make their report—it appears that this winter Secretary Denby appeared before the Committee on Public Lands and Surveys and showed a lamentable ignorance of even the outlines of the great transactions under investigation. That was bad, Mr. President. But what does it mean? Does it mean that his memory was merely faulty respecting the transactions of which two years ago he had an adequate grasp, or does it mean that he wanted to forget? What are the facts. I do not know. No charge has been made against him which he can answer or respecting which he can produce his records and say what two years ago he did in the matter, because the thing that is at test is not his memory this winter, but what he did two years ago when he was acting on behalf of the public. I do not know the quality of his then conduct. I venture to think, Mr. President, that you do not know it. Only very few Senators in the body have formed a constant opinion on that subject. Was Secretary Denby fooled by cunning people? Is the thing that we are charging against him too great credulity? I do not know and, Mr. President, you do not know.

Mr. GLASS. Mr. President——

Mr. PEPPER. I yield to the Senator from Virginia.

Mr. GLASS. Mr. Denby knows, or ought to know, whether or not he was fooled by cunning people, and he has said formally, publicly, and textually that if he had to do over again this thing he would do precisely the same thing.

Mr. PEPPER. Mr. President, I hope the Senator from Virginia will understand that I am trying to discuss this subject from the point of view of the duty of the Senate, not from the point of view of the guilt or innocence of Secretary Denby. If we by giving utterance to an improvident resolution have led the man at whom it is aimed to make a statement to the

public as a defense against the charges against his reputation, and if his defense is an unworthy one or an unwise one or a foolish one, that is a circumstance which ought to be taken into consideration by the committee or any other body which sifts facts and brings them back to us with its recommendations. But merely because we do accuse a man publicly of that which, if he be a man of honor, he should naturally resent, and if under that sting he makes an unwise or an unwarranted utterance, the most that I can say with respect to that is that it is a circumstance which we ought to take into consideration. It is not a case, I say to the Senator from Virginia, for an argumentum ad hominem, that because he has made a statement and has said thus and so, therefore a resolution that was submitted before he made the statement ought to prevail because he subsequently made it. He may have been——

Mr. HARRISON. Mr. President, may I ask the Senator a question?

The PRESIDENT pro tempore. Does the Senator from Pennsylvania yield to the Senator from Mississippi?

Mr. PEPPER. I yield to the Senator from Mississippi.

Mr. HARRISON. If the Secretary of the Navy had made that statement before the Senator from Pennsylvania voted that the Secretary of the Navy had acted in defiance of law, would the Senator then have voted as he did vote?

Mr. PEPPER. Mr. President, I want to answer that question fairly, and I want to be fair to Secretary Denby.

Mr. HARRISON. I thought the Senator had acquired the habit of answering questions "yes" or "no."

Mr. PEPPER. I think that I should be glad to answer that question "yes" or "no" if the Senator will permit me to explain.

Mr. President, if that question had come up before I voted on that resolution, I should have interrogated Secretary Denby; and I should have said to Secretary Denby, "Do you mean, Mr. Secretary, in the light of what has been developed during this investigation and in view of all that has appeared before the committee and before the Senate, that you are still of the opinion that this transaction should have been repeated?" If he had said "Yes; that is what I mean," I should have voted as the Senator from Mississippi would have liked to see me vote; but if he had said "What I meant was that in the light of the facts as I had them then, if I had the thing to do over again in the light of the facts as I then knew them, I would act as I then did," I should say that he would make a proper answer.

Mr. CARAWAY. Mr. President, may I ask the Senator a question?

The PRESIDENT pro tempore. Does the Senator from Pennsylvania yield to the Senator from Arkansas?

Mr. PEPPER. I yield to the Senator from Arkansas.

Mr. CARAWAY. The Senator just stated that if the Secretary of the Navy had made this statement before he voted on the resolution he would have interrogated him before he voted. Is the Senator now going to interrogate him before he votes on the pending resolution?

Mr. PEPPER. Not only would I like to have the opportunity to interrogate him, but I should think that every Senator in this body, through the orderly processes of the Senate, should want to have the right to interrogate him.

Mr. CARAWAY. That is not an answer to the question that I asked. Is the Senator going to interrogate him?

Mr. PEPPER. Yes; if I am given by the Senate an opportunity to do it, in the fashion in which the Senate should interrogate anyone whose conduct is under review.

Mr. CARAWAY. Well, is the Senator going to do it? He said awhile ago that he would not have voted on the other resolution until he had done it. Now, is he going to interrogate the Secretary of the Navy before he votes on this resolution? Just yes or no.

Mr. PEPPER. Mr. President, that is not what I said. The Senator from Arkansas emerges confidently from the back row and undertakes to put into my mouth words that I did not utter.

Mr. CARAWAY. Will the Senator yield a moment? Does the Senator now say that he did not say a minute ago that if the Secretary had given utterance to this statement before he voted on the other resolution he would have interrogated him before he voted? Asked that question by the Senator from Mississippi [Mr. HARRISON], he said, "I will answer, I would have interrogated him."

Mr. PEPPER. Of course, I said that.

Mr. CARAWAY. Then, is the Senator going to interrogate him before he votes on this resolution? Just say "yes" or "no."

Mr. PEPPER. I answer, no; of course, I am not going to interrogate him upon that, because that question is one which concerns the resolution which the Senate has passed.

Mr. CARAWAY. Yes; but before the Senator votes on this resolution, is he going to interrogate him?

Mr. PEPPER. I am going to decide this resolution as of the date when it was presented, in the light of the evidence as it then stood, and I am going——

Mr. CARAWAY. Mr. President, I asked the Senator——

Mr. PEPPER. Let the gentleman hear me out.

Mr. CARAWAY. I can do that without all that shouting.

Mr. PEPPER. I say, Mr. President, when I come to vote upon this resolution, I shall vote against it unless before the time when it is presented for our action the Senate shall have proceeded in an orderly fashion to call the Secretary of the Navy before the Committee on Public Lands and Surveys or any other committee to which the Senate in its wisdom may send the case; and I shall hope that either I myself, or other Senators better qualified, will interrogate Secretary Denby not only with regard to this statement—which is a trivial thing—but with regard to the real transaction, which is, What was the conduct of the Secretary of the Navy at the time he was representing the public?

Mr. WALSH of Montana. Mr. President, does the Senator from Pennsylvania desire to intimate that the Senators who conducted the investigation did not propound every question designed to extract from Secretary Denby anything and everything he knew about this matter?

Mr. PEPPER. Mr. President, I have no——

Mr. WALSH of Montana. Does the Senator estimate that he himself could have done the job a little better?

Mr. PEPPER. I have made no such intimation. On the contrary, I have been at pains to say that I thought the position of advantage that the country is now in was largely due to the careful, persistent, and discriminating work of the Senator from Montana.

Mr. WALSH of Montana. Yes, but, if the Senator will pardon me, he has also stated that he would want an opportunity to bring Secretary Denby before the Senate to interrogate him about all the facts and circumstances connected with this transaction. Does he desire to intimate that that was not done?

Mr. PEPPER. Mr. President, the record, when it is produced to the Senate, will show what was done.

Mr. WALSH of Montana. Exactly, and it is here.

Mr. PEPPER. I did not know that the committee had reported, Mr. President.

Mr. WALSH of Montana. Perhaps the Senator could have handled it a little better.

Mr. MOSES (in his seat). I think he could.

Mr. PEPPER. I think some of us are getting a little bit oversensitive in the course of this debate. Nothing that I said could by any fair intendment have been taken as a reflection upon the Senator from Montana. I yield to nobody in this body in my respect and regard for him. I think he has done a fine piece of professional work.

I was being interrogated, Mr. President, by the Senator from Arkansas [Mr. CARAWAY] and the Senator from Mississippi [Mr. HARRISON] respecting a statement that, according to the press, Secretary Denby has made.

I have said——

Mr. ROBINSON. Mr. President——

Mr. PEPPER. I will ask the Senator to excuse me for one moment until I finish my sentence. I have said that I will express no opinion respecting the significance of that statement until the Secretary of the Navy has been regularly interrogated in regard to it, and I think that should be done by a committee of the Senate rather than by me as an individual.

Mr. ROBINSON. Mr. President, will the Senator yield?

The PRESIDENT pro tempore. Does the Senator from Pennsylvania yield to the Senator from Arkansas?

Mr. PEPPER. I yield to the Senator from Arkansas.

Mr. ROBINSON. The Senator will, of course, not insist upon interrogating the Secretary of the Navy as to the meaning of his statement if the language employed by the Secretary of the Navy is not ambiguous, but is clear in its import. The great lawyer who is now addressing the Senate, the Senator from Pennsylvania, would certainly not insist upon doing the useless thing of asking the Secretary of the Navy what he meant, if his statements are clear, and there is no room for doubt as to what he meant. Is not that true?

Mr. PEPPER. Mr. President, that sounds to me like a pretty sound proposition.

Mr. ROBINSON. I thought the Senator would recognize it as such. Now, if I may, I will read to the Senator the lan-

guage to which he has referred, and which has also been mentioned by the Senator from Mississippi, by the junior Senator from Arkansas, and by other Senators.

I am so convinced I did the right thing that I would do it again to-morrow, regardless of the circumstances.

That statement made on January 29, after all the facts had been developed, after the resolution now under consideration in its original form was presented to the Senate, and after a Cabinet meeting had been held, according to the press, to determine whether or not the Secretary of the Navy should remain in the Cabinet. What could the declaration of the Secretary of the Navy mean, what sense can the Senator from Pennsylvania give to it, unless he interprets it according to its fair meaning, namely, that, with a full knowledge of all the circumstances that had been developed in the hearings before the Public Lands Committee and in spite of the fact that the Senate is now considering a resolution declaring the acts in relation to the leases illegal and against public policy, as well as the settled policy of the Government, "I am so sure that I was right that I would do it again, notwithstanding all the circumstances which have been brought to light?"

As implied by the question of the Senator from Colorado [Mr. ADAMS], if the Congress of the United States is to preserve the naval oil reserves so that in case war shall again come to curse this land the Navy of the United States may be supplied with the necessary fuel, it becomes necessary that Mr. Denby vacate the office and yield it to some one who will respect the established policy of the law and not defy it.

Senators have undertaken to treat this resolution as in the nature of an impeachment. No such thing is justified by the terms of the resolution——

Mr. BRUCE. Mr. President, may I interrupt the Senator for a moment?

Mr. ROBINSON. Not at this time—or by the considerations which prompted its introduction. This is an effort to protect the property of the United States and to execute the policy of its law.

The Secretary of the Navy has placed himself squarely in the way of an enforcement of the laws of the United States; he has defiantly declared that he acted in accordance with the law, when every Senator here, including the Senator from Maryland [Mr. BRUCE], voted that his acts were in violation of law. The issue involved in this resolution is not the guilt or innocence, the ignorance or negligence of the Secretary of the Navy; it is the preservation of the property and rights of the people of the United States. That can not be done if the policy of the present Secretary of the Navy prevails. Senators may invoke Magna Charta and the Constitution of the United States——

Mr. BRUCE. Mr. President, I rise to a point of order.

The PRESIDENT pro tempore. The Senator from Maryland will state his point of order.

Mr. BRUCE. I submit that no Senator to whom another Senator having the floor has yielded has the right to inject a long speech such as that of the Senator from Arkansas while the other Senator has the floor.

Mr. PEPPER. Mr. President, I thank the Senator from Maryland, but when this kind of an interruption occurs in the middle of an argument of mine I always regard it as an evidence that I have gotten under the gentleman's skin, and I never interrupt him.

Mr. ROBINSON. Mr. President——

The PRESIDENT pro tempore. The Chair desires to rule on the point of order. The Chair can not sustain the point of order at this time.

Mr. ROBINSON. I thank the Chair.

The PRESIDENT pro tempore. That question must arise, if at all, when the Senator from Pennsylvania again claims the attention of the Senate.

Mr. ROBINSON. Mr. President, I again thank the Senator from Pennsylvania for yielding to me. I am earnest about this matter, because I see great minds and trained minds diverting the real issue and evading it. You are not fooling anybody when you talk about Magna Charta and constitutional rights being invaded when the Senate says that "having adjudged the acts of the Secretary of the Navy as in violation of law and of the settled policy of the United States, and he having declared his purpose to defy the law and the Congress of the United States, we ask you, Mr. President, to call for his resignation."

The other day the Senator from Massachusetts [Mr. LODGE] referred to this resolution as "lynch law," and the next day the newspapers carried the glaring headlines, "LODGE urges Coolidge to get rid of Denby"—to lynch Denby! Senators are willing to exert private influences, but they are unwilling to stand in the full light of publicity that shines on this Chamber and every Senator in it and do publicly what they know ought to be done, and then they waste the time of intelligent people in talking about Magna Chartas and constitutions, which have no relation to the issue, and everybody knows it except the Senators who so waste their time.

I thank the Senator from Pennsylvania for "getting under my skin."

Mr. PEPPER. Mr. President, I am sure that the Senator from Arkansas—whose patriotism and talent and fairness are the admiration of everybody in this body—did not mean, by anything he said, to imply that there are not those of us on this side of the aisle who are as earnest as he is in defending public character when it deserves defense and in seeking evidence against those who are alleged to have been guilty when a prima facie case is made against them. We are not here to shield or to advocate the shielding of any man in office, high or low. We are here, Mr. President, to consider as calmly as we may the merits of a particular resolution in which the Senate proposes to call upon the President of the United States to ask for the resignation of a member of his Cabinet. I repeat that we are asked to pass this resolution when there is absolutely nothing before the Senate which informs us as to the grounds upon which we are acting. If this resolution is passed and individual Senators are asked, "Did you mean by voting for this resolution to declare your opinion that the Secretary of the Navy was too credulous in the presence of the craft of others; did you mean by it that he was culpably negligent; did you mean by it that he had been guilty of a betrayal of the public trust; did you mean by it that he is as guilty as hell of high crimes and misdemeanors?" I venture to say that there will be almost as many answers as the Senators interrogated.

No charges have been made against this man, Mr. President. There has been no hearing of charges against him. He has had no opportunity to make answer in his own behalf to formulated charges. He has no opportunity to produce witnesses. If the President of the United States, upon receipt of our resolution, were to reply, in terms of courtesy: "I have received the resolution of the Senate, and, for my information and guidance, should like to be furnished with a copy of the report of the committee upon which the resolution was based," we should have to admit with shame that there was no report. If he then were to say to us: "I shall appreciate it if the Senate will send me the formulation of the charges which led them to pass the resolution," we should be compelled to admit that there were none; and if some Senators tried to evade by pointing to the preamble of a resolution we passed the other day, the President might make us ridiculous by replying that in so far as those dealt with the question of legality that was a question for the courts, and in so far as the general declaration was concerned that what was done was against public opinion, there is as much need of a bill of particulars there from a committee of the Senate as in any case where the Senate is asked to pass upon difficult and complicated matters.

Mr. President, we are on the verge of passing a resolution which may be so grossly unfair to Secretary Denby that hereafter we will be ashamed of it, or we may be passing a resolution which, in the light of subsequent events, may be so inadequate as a condemnation that we shall be ashamed of it. We are without facts, and the people will not accept denunciation by individual Senators for the facts. As I have said, it is possible for Senators to glow with self-righteousness until they are as oily as the men they accuse; but the inquiry of the country will be whether there is any bedrock of character on the part of the denouncers which justifies utterance in advance of facts.

Mr. KING. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Pennsylvania yield to the Senator from Utah?

Mr. PEPPER. I yield to the Senator from Utah.

Mr. KING. I ask again, in no controversial spirit, whether the Senator does not see some analogy between the present situation and the one that was presented in Great Britain soon after the outbreak of the war? Lord Haldane and other distinguished Englishmen held high and important positions in the Government. Many of the people, or at least some, suspected that Lord Haldane and others sympathized too much with Germany. They did not question the fact that they were true Britishers, but they felt that in a great crisis which involved the integrity and perpetuity of the British Empire it was unsafe to have on the breastworks men who were suspected even of having sympathy with Germany. Thereupon the Premier of Great Britain, quietly yielding to the popular demand, forced

those men from position—one from the cabinet and several from important positions in the naval department.

Does not the Senator see an analogy here? The Secretary of the Navy occupies a high position in the Government. He was charged with the responsibility of conserving the oil interests and deposits of the United States. Senators feel, I presume, from the vote which has been had here and the statements which have been made, that Secretary Denby was derelict in his duty, either through ignorance or through bad advice; but, at any rate, they distrust him to continue to handle this important asset of the Government. Does not the Senator feel that in view of that fact, if the President of the United States declines to do what obviously he should do and ask the Secretary of the Navy to resign, there is no impropriety upon the part of the Senate, which is charged by the country to care for this great heritage, in signifying to the President of the United States, "We do not trust this man in this position, and we prefer that you should name somebody else."

Mr. PEPPER. Mr. President, I am not sufficiently familiar with the details of the English incident to answer very intelligently; but I will say that if the House of Commons, on hearing that transactions of the sort described by the Senator from Utah had been participated in by Cabinet officers, passed a resolution without receiving the report of a committee, which could be the basis of its action, and called upon the Premier to do what the Senator says he did, then there is analogy. Otherwise there is no analogy, because what I am contending is not that Secretary Denby is guiltless, not that he is guilty; for I do not know, Mr. President; and I believe that if Senators are honest with themselves there are many on both sides of the Chamber who could not intelligently formulate at this moment a statement of the particular defect in conduct or character which they are trying to reprimand and punish. I should not vote for this resolution until there had been such an investigation by the committee as would give me the benefit of the committee's judgment on the evidence which they themselves elicited. I should want to consider their report and everything that they regarded as pertinent for the consideration of the Senate; and when I had considered it I might feel that I was bound to perform the very unpleasant duty of voting in effect to condemn a man for an offense which conceivably thereafter I might have to try him for.

I do not know what such an investigation will show, Mr. President. I do not know whether it will show that Edwin Denby was absolutely innocent, whether it will show that he was pitifully credulous, whether it will show that he was culpably negligent, or whether it will show that he was as guilty as hell. I have no idea what the outcome will be; but until we are informed as a Senate, in the fashion in which the Senate must get its information, if it is to act constitutionally, I must vote against a resolution which may be either unduly severe on Denby or unduly lenient with him, which will be unfair to the President and unjust to the Senate.

Mr. GLASS. Mr. President, may I ask the Senator to yield for a question?

The PRESIDENT pro tempore. Does the Senator from Pennsylvania yield to the Senator from Virginia?

Mr. PEPPER. I yield the floor.

Mr. GLASS. Before the Senator takes his seat I want to ask him a rather intimate question.

There are those of us on this side of the Chamber, notwithstanding the imputation of the distinguished Senator from Pennsylvania to the contrary, who want to arrive at a conscientious solution of the pending resolution.

Mr. PEPPER. Oh, Mr. President, I am sure the Senator from Virginia does me an injustice. I have made no such imputation.

Mr. GLASS. The Senator is mistaken. If he will read over his preliminary remarks, he will find that he distinctly suggested, if he did not definitely state, that Senators on this side had shed crocodile tears over these awful disclosures, while at the same time they were glad that they had occurred. That, however, is not important. I discriminate, and I think others of us here discriminate, the question of guilt—if by guilt there be meant criminal or corrupt action on the part of the Secretary of the Navy—and disclosures of positive, if not shocking, unfitness for that high office in matters of discretion, in lack of tactfulness, in defiant declarations that in the light of disclosures to this moment he would not retrace his steps, but would do precisely what he had done.

I want to arrive at a just verdict when compelled to say whether or not I think Edwin Denby should continue to hold the high office of Secretary of the Navy. Personally, had my advice been sought, I would not have presented this resolution. I would not have done so for two reasons—primarily, because it might seem to be a hasty or passionate and irregular action upon the part of the Senate. Were I disposed to treat the matter as political, from a partisan standpoint, I would not have presented this resolution, because, as a partisan, I would infinitely prefer to go to the country with Edwin Denby in office than with Mr. Denby out of office and perhaps forgotten.

The distinguished Senator from Pennsylvania does not know, nor do I pretend to know, whether or not Mr. Denby has been guilty of corruption in office, but he does know, as I know, up to this moment, what have been the disclosures as to Mr. Denby's fitness for the position which he now holds. The intimate question I desire to propound to the Senator is this: Would the Senator from Pennsylvania, in the light of all the disclosures up to this moment, without further inquiry, vote for the confirmation of Mr. Denby as Secretary of the Navy of the United States were his nomination now pending in executive session?

Mr. PEPPER. Mr. President, I do not see the relevancy of that to the inquiry, but I will say with entire frankness that I should not do so unless I had had an opportunity to take this great undigested mass of information, which is just dangling before me now, and which I have not sifted or analyzed, and been able to make up my mind that it was an injustice to him. Only then should I vote for his confirmation. I think, sir, the great preponderance of chance is that after such a process I should vote against his confirmation.

Mr. GLASS. Very well, then. Here is a resolution before the Senate which I did not bring here and which, as I have indicated, I would not have brought here for two reasons. But I am compelled to say by my vote on this resolution whether I think Mr. Denby should longer continue as Secretary of the Navy, and in the light of disclosures I shall feel compelled to say that I think he ought to resign. I shall feel compelled to say that if he does not sufficiently appreciate the nature of these disclosures to voluntarily resign the President should request his resignation.

Mr. PEPPER. Mr. President, I respect the Senator's feeling about that matter. I know how uncomfortable it is to be confronted with a resolution which your judgment disapproves but which you can not vote against. I was in that position when, against my protest, the Senate by a majority vote tacked on what I thought was a series of unsound preambles to a sensible resolution. I took the resolution because I thought that that was an important thing to enact, and I swallowed the preambles. I fancy that the Senator from Virginia will be right if he swallows this resolution, but I can not. I am afraid I should regurgitate.

Mr. HARRISON. Mr. President, will the Senator yield?

Mr. GLASS. Mr. President, the Senator from Virginia does not regard anything in this resolution as unsound or foolish. He simply regards it as inopportune, for the reasons very definitely stated.

Mr. PEPPER. I did not mean to put words in the Senator's mouth. I was inferring——

Mr. GLASS. The Senator from Virginia is not disturbed.

Mr. HARRISON and Mr. ASHURST addressed the Chair.

The PRESIDENT pro tempore. Does the Senator from Pennsylvania yield; and if so, to whom?

Mr. PEPPER. I yield to the Senator from Mississippi.

Mr. HARRISON. The Senator has made a great success in his profession, due to the fact that he can talk equally well on both sides of every question. Following up the question of the Senator from Virginia, I want to ask the Senator this question: Is it the Senator's opinion now that Mr. Denby should resign? Aside from this resolution, what is the Senator's opinion?

Mr. PEPPER. Mr. President, I do not think that individual Senators should express their opinions as to whether members of the Cabinet of the United States should or should not resign. The Senate speaks by its collective voice, and I shall vote upon this resolution as I think best when the time comes. I will not answer the question as put.

Mr. HARRISON. Perhaps the Senator will answer this question. Has he not used the great influence which he has with the President of the United States to get Mr. Denby to resign?

Mr. PEPPER. Mr. President, if that question could remain unanswered without an implication that I was afraid to answer it, I should pass it by as one that ought not to have been asked, but since it has been asked I will say that I have done no such thing, and I doubt very much whether any other Senator in this body has attempted such a thing.

Mr. ASHURST. Mr. President, the Senator from Pennsylvania, my good friend, has indicated that he had some trouble in swallowing the preambles to the joint resolution passed the other day. The ease with which he swallowed the preamble

to the Newberry resolution ought to have made it easy for these to go down in one gulp.

Mr. WALSH of Montana obtained the floor.

Mr. PEPPER. Mr. President, will the Senator from Montana permit me to comment on what has just been said by the Senator from Arizona?

The PRESIDENT pro tempore. Does the Senator from Montana yield to the Senator from Pennsylvania?

Mr. WALSH of Montana. I yield.

Mr. PEPPER. Both with regard to the joint resolution which was passed the other day and with regard to the resolution to which the Senator from Arizona refers, I followed a course which I expect always to follow in the Senate, that where there is a sound resolution, as I conceive it, with preambles attached to it in which I do not believe, I shall vote for the resolution as the lesser of two evils; which would be, as I regard it, the sensible course for any man of conviction to follow in the circumstances.

Mr. WALSH of Montana. Mr. President, I had hoped to secure the floor at an earlier hour of the day to lay before the Senate the essential facts and to discuss as best I could the law applicable to this resolution, but in the light of the parliamentary procedure my remarks upon the subject would take a considerable length of time, and I shall not speak this afternoon.

Mr. CURTIS. I was going to ask the Senator whether he would mind yielding so that we could take a recess with the understanding that the Senator will have the floor when we meet to-morrow.

Mr. WALSH of Montana. I yield for that purpose.

Mr. McCORMICK. Mr. President, I ask unanimous consent to have the following telegram read.

The PRESIDENT pro tempore. Without objection, the Secretary will read as requested.

The reading clerk read as follows:

CHICAGO, ILL., *February 7, 1924.*

Hon. MEDILL McCORMICK,

United States Senate, Washington:

I believe both California naval oil reserves were created on my recommendation as Secretary of the Interior. I believe their subsequent leasing was wrong in method and substance, but Senate resolution against Secretary Denby seems to violate all principles of justice and fair play. He is certainly entitled to fair hearing on specific charges.

WALTER L. FISHER.

MEMORIAL TO THE NAVY AND MARINE SERVICE.

The PRESIDENT pro tempore laid before the Senate the amendment of the House of Representatives to the joint resolution (S. J. Res. 68) authorizing the erection on public grounds in the city of Washington, D. C., of a memorial to the Navy and marine services, to be known as Navy and Marine Memorial Dedicated to Americans Lost at Sea, which was, on page 2, line 5, after the word "erection," to insert "or maintenance."

Mr. PEPPER. I move that the Senate concur in the amendment of the House.

The motion was agreed to.

FOX RIVER BRIDGES, ILLINOIS.

The PRESIDENT pro tempore laid before the Senate the amendments of the House of Representatives to the bill (S. 1539) extending the time for the construction of a bridge across Fox River by the city of Aurora, Ill., and granting the consent of Congress to the removal of an existing dam and to its replacement with a new structure, which were, on page 2, after line 7, to insert a new paragraph to read as follows:

SEC. 3. The said city of Aurora shall pay all damages which may be legally assessed to any person or corporation for damage to person or property caused by the erection of the work mentioned herein.

And on page 2, line 8, to strike out "3" and to insert in lieu thereof "4."

Mr. JONES of Washington. At the instance of the Senator from Illinois [Mr. McKINLEY] I move that the Senate concur in the House amendments.

The motion was agreed to.

The PRESIDENT pro tempore laid before the Senate the amendment of the House of Representatives to the bill (S. 1540) granting the consent of Congress to the city of Aurora, Kane County, Ill., a municipal corporation, to construct, maintain, and operate certain bridges across Fox River, which was, on page 1, to strike out lines 3 to 12, inclusive, and also line 1, page 2, and to insert:

That the consent of Congress is hereby granted to the city of Aurora, a municipal corporation, situated in the county of Kane and State of Illinois, to construct, maintain, and operate two bridges and the approaches thereto, one of said bridges being across the east branch of the Fox River, reaching from Stolps Island to the mainland and connecting the west end of Benton Street with Stolps Island, and the other bridge across the west branch of Fox River, reaching from Stolps Island to the mainland and connecting the east end of Holbrook Street with Stolps Island, both situated in the said city, county, and State, in accordance with the provisions of the act entitled "An act to regulate the construction of bridges over navigable waters," approved March 23, 1906.

Mr. JONES of Washington. Likewise, at the instance of the Senator from Illinois [Mr. McKINLEY], I move that the Senate concur in the amendment of the House.

The motion was agreed to.

BRIDGES OVER UNITED STATES CANAL IN FLORIDA.

Mr. FLETCHER. Mr. President, there is a bridge bill on the calendar, Order of Business No. 125, the bill (S. 2014) to authorize the Park-Wood Lumber Co. to construct a bridge across the United States Canal which connects Apalachicola River and St. Andrews Bay, Fla. The bill is quite important and should be passed. I ask unanimous consent for its immediate consideration.

The PRESIDENT pro tempore. The Senator from Florida asks unanimous consent that the Senate proceed to the immediate consideration of Senate bill 2014. Is there objection?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill which had been reported from the Committee on Commerce with amendments, on page 1, line 4, to strike out "Florida" and insert "New Hampshire"; in line 6, after the word "operate" to strike out the words "a bridge" and insert the words "two bridges"; in line 10 to strike out "at or near Flowing Well" and insert "in the county of Calhoun"; and on page 2, after line 11, to insert a new section, as follows:

SEC. 2. That the right to alter, amend, or repeal this act is hereby expressly reserved.

So as to make the bill read:

Be it enacted, etc., That the Park-Wood Lumber Co., a corporation organized and existing under the laws of the State of New Hampshire, its successors and assigns, be, and it is hereby, authorized to construct, maintain, and operate two bridges and approaches thereto across the United States Canal which connects Apalachicola River and St. Andrews Bay, at a point suitable to the interests of navigation, in the county of Calhoun, in the State of Florida, in accordance with the provisions of the act entitled "An act to regulate the construction of bridges over navigable waters," approved March 23, 1906: *Provided*, That the Secretary of War is hereby authorized, upon the recommendation of the Chief of Engineers, United States Army, to grant permission to the said Park-Wood Lumber Co., under such terms and conditions as the said Secretary may deem equitable and fair to the public, to cross and occupy such public lands pertinent to the United States Canal as may be necessary for the bridge and approaches thereto.

SEC. 2. That the right to alter, amend, or repeal this act is hereby expressly reserved.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill to authorize the Park-Wood Lumber Co. to construct two bridges across the United States Canal which connects Apalachicola River and St. Andrews Bay, Fla."

ORDER FOR EXECUTIVE SESSION.

Mr. WADSWORTH. Mr. President, I desire to call the attention of the Senate to the first unanimous-consent agreement printed on the title-page of the calendar, as follows:

It is agreed by unanimous consent that on Tuesday, February 5, 1924, immediately following the conclusion of the routine morning business, the Senate will proceed to the consideration of executive business, for the purpose of taking up and considering the nomination of Duncan K. Major, jr., to be colonel of Infantry.

The Senate did not happen to be in session on Tuesday, February 5, 1924, owing to the adjournment on Monday out of respect to the memory of the former President, Mr. Wilson. The Senate reconvened after the unanimous-consent agreement date had passed by. I therefore ask unanimous consent that the same unanimous-consent agreement be entered into with the date fixed as of February 13, Wednesday next, instead of February 5, last Tuesday.

The PRESIDENT pro tempore. Is there objection to the unanimous-consent agreement asked by the Senator from New York?

Mr. WALSH of Massachusetts. Mr. President, the Senator from New York has been very fair about arranging for the hearing of this matter, but I, without objecting, want to emphasize the fact that I think it is a great mistake to inject the hearing of this matter while the Denby resolution is pending. It is a question that will take from three to four hours of discussion, and if the Senate has not then acted upon the resolution to remove Secretary Denby, I doubt if we will be able to hold in the Chamber a sufficient number of Senators to hear the arguments.

It is one of those cases where the Senate ought to hear what can be said both for and against the nominee. I should much prefer to have the case taken up at a time after the minds of Senators are removed from the present subject matter. However, the Senator from New York has been so fair and so reasonable about fixing the time that I do not feel like objecting, but I wish that we could have a date fixed after the Denby resolution is disposed of.

Mr. WADSWORTH. I would not make the request if it were not for the fact that already two unanimous-consent agreements with respect to an executive session have been disregarded by the Senate. Other matters have intervened, unavoidably, of course. Now, I ask finally for a third one, which I hope will hold good. If the Senate can not finish the debate on the Denby resolution by noon of next Wednesday, it ought to be ashamed of itself.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from New York?

Mr. JONES of Washington. I hope the Senator will make it the 14th.

Mr. McKELLAR. We can not hear what is going on upon the other side.

The PRESIDENT pro tempore. Complaint is made that the Senator from Washington was not heard.

Mr. JONES of Washington. I simply expressed the hope that the date would be made the 14th instead of the 13th. I think there are several Senators who will probably be away over Lincoln's birthday and they may not be able to get back on the 13th. That is the only reason why I make the suggestion.

Mr. WADSWORTH. I am willing to accept the change, if agreeable to other Senators, and will make it the 14th.

The PRESIDENT pro tempore. Is there objection to the request, as modified by the Senator from New York? The Chair hears none, and it is ordered as requested by the Senator from New York.

MILTON DWIGHT PURDY.

Mr. BRANDEGEE. Mr. President, I am informed that there is not going to be an executive session this evening. The nomination of Milton Dwight Purdy has come in for appointment as judge for the China court. The term of the present incumbent expires on the 9th of February, and it is very desirable that the nomination shall be referred. I am aware that it is an executive-session matter, but for the purpose of avoiding an executive session with closed doors I ask if by unanimous consent we can not have that nomination referred to the Committee on the Judiciary as in open executive session?

The PRESIDENT pro tempore. Without objection, the nomination to which the Senator from Connecticut refers will be referred, as in open executive session, to the Committee on the Judiciary.

TREATY WITH GERMANY.

Mr. LODGE. I ask as in open executive session that the injunction of secrecy be removed from the treaty of commerce with Germany.

The PRESIDENT pro tempore. The Senator from Massachusetts asks that the injunction of secrecy be removed from the treaty with Germany. Is there objection? The Chair hears none, and it is so ordered.

The treaty is as follows:

FRIENDSHIP, COMMERCE, AND CONSULAR RIGHTS WITH GERMANY.

To the Senate:

With a view to receiving the advice and consent of the Senate to its ratification, I transmit herewith a treaty of friendship, commerce, and consular rights between the United States and Germany, signed at Washington on December 8, 1923.

CALVIN COOLIDGE.

THE WHITE HOUSE,
Washington, December 11, 1923.

The PRESIDENT:

The undersigned, the Secretary of State, has the honor to lay before the President, with a view to its transmission to the Senate, to receive the advice and consent of that body to its ratification, if his judgment approve thereof, a treaty of friendship, commerce, and consular rights, concluded between the United States and Germany, at Washington, on December 8, 1923.

Respectfully submitted.

CHARLES E. HUGHES.

Accompaniment: Treaty.

DEPARTMENT OF STATE,
Washington, December 10, 1923.

The United States of America and Germany, desirous of strengthening the bond of peace which happily prevails between them, by arrangements designed to promote friendly intercourse between their respective territories through provisions responsive to the spiritual, cultural, economic, and commercial aspirations of the peoples thereof, have resolved to conclude a treaty of friendship, commerce, and consular rights and for that purpose have appointed as their plenipotentiaries:

The President of the United States of America, Mr. Charles Evans Hughes, Secretary of State of the United States of America,

and

The President of the German Empire, Dr. Otto Wiedfeldt, German Ambassador to the United States of America,

Who, having communicated to each other their full powers found to be in due form, have agreed upon the following articles:

ARTICLE I.

The nationals of each of the high contracting parties shall be permitted to enter, travel, and reside in the territories of the other; to exercise liberty of conscience and freedom of worship; to engage in professional, scientific, religious, philanthropic, manufacturing, and commercial work of every kind without interference; to carry on every form of commercial activity which is not forbidden by the local law; to own, erect, or lease and occupy appropriate buildings and to lease lands for residential, scientific, religious, philanthropic, manufacturing, commercial, and mortuary purposes; to employ agents of their choice, and generally to do anything incidental to or necessary for the enjoyment of any of the foregoing privileges upon the same terms as nationals of the state of residence or as nationals of the nation hereafter to be most favored by it, submitting themselves to all local laws and regulations duly established.

The nationals of either high contracting party within the territories of the other shall not be subjected to the payment of any internal charges or taxes other or higher than those that are exacted of and paid by its nationals.

The nationals of each high contracting party shall enjoy freedom of access to the courts of justice of the other on conforming to the local laws, as well for the prosecution as for the defense of their rights, and in all degrees of jurisdiction established by law.

The nationals of each high contracting party shall receive within the territories of the other, upon submitting to conditions imposed upon its nationals, the most constant protection and security for their persons and property, and shall enjoy in this respect that degree of protection that is required by international law. Their property shall not be taken without due process of law and without payment of just compensation.

ARTICLE II.

With respect to that form of protection granted by National, State, or provincial laws establishing civil liability for injuries or for death, and giving to relatives or heirs or dependents of an injured party a right of action or a pecuniary benefit, such relatives or heirs or dependents of the injured party, himself a national of either of the high contracting parties and within any of the territories of the other, shall, regardless of their alienage or residence outside of the territory where the injury occurred, enjoy the same rights and privileges as are or may be granted to nationals and under like conditions.

ARTICLE III.

The dwellings, warehouses, manufactories, shops, and other places of business and all premises thereto appertaining of the nationals of each of the high contracting parties in the territories of the other used for any purposes set forth in Article I shall be respected. It shall not be allowable to make a domiciliary visit to or search of any such buildings and premises,

or there to examine and inspect books, papers, or accounts, except under the conditions and in conformity with the forms prescribed by the laws, ordinances, and regulations for nationals.

ARTICLE IV.

Where, on the death of any person holding real or other immovable property or interests therein within the territories of one high contracting party, such property or interests therein would, by the laws of the country or by a testamentary disposition, descend or pass to a national of the other high contracting party, whether resident or nonresident, were he not disqualified by the laws of the country where such property or interests therein is or are situated, such national shall be allowed a term of three years in which to sell the same, this term to be reasonably prolonged if circumstances render it necessary, and withdraw the proceeds thereof, without restraint or interference, and exempt from any succession, probate, or administrative duties or charges other than those which may be imposed in like cases upon the nationals of the country from which such proceeds may be drawn.

Nationals of either high contracting party may have full power to dispose of their personal property of every kind within the territories of the other, by testament, donation, or otherwise, and their heirs, legatees, and donees, of whatsoever nationality, whether resident or nonresident, shall succeed to such personal property and may take possession thereof, either by themselves or by others acting for them, and retain or dispose of the same at their pleasure, subject to the payment of such duties or charges only as the nationals of the high contracting party within whose territories such property may be or belong shall be liable to pay in like cases.

ARTICLE V.

The nationals of each of the high contracting parties in the exercise of the right of freedom of worship, within the territories of the other, as hereinabove provided, may, without annoyance or molestation of any kind by reason of their religious belief or otherwise, conduct services either within their own houses or within any appropriate buildings which they may be at liberty to erect and maintain in convenient situations, provided their teachings or practices are not contrary to public morals; and they may also be permitted to bury their dead according to their religious customs in suitable and convenient places established and maintained for the purpose, subject to the reasonable mortuary and sanitary laws and regulations of the place of burial.

ARTICLE VI.

In the event of war between either high contracting party and a third State, such party may draft for compulsory military service nationals of the other having a permanent residence within its territories and who have formally, according to its laws, declared an intention to adopt its nationality by naturalization, unless such individuals depart from the territories of said belligerent party within sixty days after a declaration of war.

ARTICLE VII.

Between the territories of the high contracting parties there shall be freedom of commerce and navigation. The nationals of each of the high contracting parties equally with those of the most favored nation, shall have liberty freely to come with their vessels and cargoes to all places, ports, and waters of every kind within the territorial limits of the other which are or may be open to foreign commerce and navigation. Nothing in this treaty shall be construed to restrict the right of either high contracting party to impose, on such terms as it may see fit, prohibitions or restrictions of a sanitary character designed to protect human, animal, or plant life, or regulations for the enforcement of police or revenue laws.

Each of the high contracting parties binds itself unconditionally to impose no higher or other duties or conditions and no prohibition on the importation of any article, the growth, produce, or manufacture of the territories of the other than are or shall be imposed on the importation of any like article the growth, produce, or manufacture of any other foreign country.

Each of the high contracting parties also binds itself unconditionally to impose no higher or other charges or other restrictions or prohibitions on goods exported to the territories of the other high contracting party than are imposed on goods exported to any other foreign country.

Any advantage of whatsoever kind which either high contracting party may extend to any article, the growth, produce, or manufacture of any other foreign country shall simultaneously and unconditionally, without request and without compensation, be extended to the like article the growth, produce, or manufacture of the other high contracting party.

All the articles which are or may be legally imported from foreign countries into ports of the United States in United States vessels may likewise be imported into those ports in German vessels without being liable to any other or higher duties or charges whatsoever than if such articles were imported in United States vessels; and, reciprocally, all articles which are or may be legally imported from foreign countries into the ports of Germany in German vessels may likewise be imported into these ports in United States vessels without being liable to any other or higher duties or charges whatsoever than if such were imported from foreign countries in German vessels.

With respect to the amount and collection of duties on imports and exports of every kind, each of the two high contracting parties binds itself to give to the nationals, vessels, and goods of the other the advantage of every favor, privilege, or immunity which it shall have accorded to the nationals, vessels, and goods of a third State, and regardless of whether such favored State shall have been accorded such treatment gratuitously or in return for reciprocal compensatory treatment. Every such favor, privilege, or immunity which shall hereafter be granted the nationals, vessels, or goods of a third State shall simultaneously and unconditionaly, without request and without compensation, be extended to the other high contracting party for the benefit of itself, its nationals, and vessels.

The stipulations of this article shall apply to the importation of goods into and the exportation of goods from all areas within the German customs lines, but shall not extend to the treatment which either contracting party shall accord to purely border traffic within a zone not exceeding 10 miles (15 kilometers) wide on either side of its customs frontier, or to the treatment which is accorded by the United States to the commerce of Cuba under the provisions of the commercial convention concluded by the United States and Cuba on December 11, 1902, or any other commercial convention which hereafter may be concluded by the United States with Cuba, or to the commerce of the United States with any of its dependencies and the Panama Canal Zone under existing or future laws.

ARTICLE VIII.

The nationals and merchandise of each high contracting party within the territories of the other shall receive the same treatment as nationals and merchandise of the country with regard to internal taxes, transit duties, charges in respect to warehousing and other facilities, and the amount of drawbacks and bounties.

ARTICLE IX.

No duties of tonnage, harbor, pilotage, lighthouse, quarantine, or other similar or corresponding duties or charges of whatever denomination, levied in the name or for the profit of the Government, public functionaries, private individuals, corporations, or establishments of any kind shall be imposed in the ports of the territories of either country upon the vessels of the other, which shall not equally, under the same conditions, be imposed on national vessels. Such equality of treatment shall apply reciprocally to the vessels of the two countries, respectively, from whatever place they may arrive and whatever may be their place of destination.

ARTICLE X.

Merchant vessels and other privately owned vessels under the flag of either of the high contracting parties, and carrying the papers required by its national laws in proof of nationality shall, both within the territorial waters of the other high contracting party and on the high seas, be deemed to be the vessels of the party whose flag is flown.

ARTICLE XI.

Merchant vessels and other privately owned vessels under the flag of either of the high contracting parties shall be permitted to discharge portions of cargoes at any port open to foreign commerce in the territories of the other high contracting party, and to proceed with the remaining portions of such cargoes to any other ports of the same territories open to foreign commerce, without paying other or higher tonnage dues or port charges in such cases than would be paid by national vessels in like circumstances, and they shall be permitted to load in like manner at different ports in the same voyage outward, provided, however, that the coasting trade of the United States is exempt from the provisions of this article and from the other provisions of this treaty, and is to be regulated according to the laws of the United States in relation thereto. It is agreed, however, that the nationals of either high contracting party shall within the territories of the other enjoy with respect to the coasting trade the most-favored-nation treatment.

ARTICLE XII.

Limited liability and other corporations and associations, whether or not for pecuniary profit, which have been or may hereafter be organized in accordance with and under the laws, national, state, or provincial, of either high contracting party and maintain a central office within the territories thereof, shall have their juridical status recognized by the other high contracting party, provided that they pursue no aims within its territories contrary to its laws. They shall enjoy free access to the courts of law and equity, on conforming to the laws regulating the matter, as well for the prosecution as for the defense of rights in all the degrees of jurisdiction established by law.

The right of such corporations and associations of either high contracting party so recognized by the other to establish themselves within its territories, establish branch offices and fulfill their functions therein shall depend upon, and be governed solely by, the consent of such party as expressed in its national, state, or provincial laws.

ARTICLE XIII.

The nationals of either high contracting party shall enjoy within the territories of the other, reciprocally and upon compliance with the conditions there imposed, such rights and privileges as have been or may hereafter be accorded the nationals of any other State with respect to the organization of and participation in limited liability and other corporations and associations, for pecuniary profit or otherwise, including the rights of promotion, incorporation, purchase and owner ship and sale of shares, and the holding of executive or official positions therein. In the exercise of the foregoing rights and with respect to the regulation or procedure concerning the organization or conduct of such corporations or associations, such nationals shall be subjected to no conditions less favorable than those which have been or may hereafter be imposed upon the nationals of the most favored nation. The rights of any of such corporations or associations as may be organized or controlled or participated in by the nationals of either high contracting party within the territories of the other to exercise any of their functions therein, shall be governed by the laws and regulations, national, state, or provincial, which are in force or may hereafter be established within the territories of the party wherein they propose to engage in business. The foregoing stipulations do not apply to the organization of and participation in political associations.

The nationals of either high contracting party shall, moreover, enjoy within the territories of the other, reciprocally and upon compliance with the conditions there imposed, such rights and privileges as have been or may hereafter be accorded the nationals of any other State with respect to the mining of coal, phosphate, oil, oil shale, gas, and sodium on the public domain of the other.

ARTICLE XIV.

(a) Manufacturers, merchants, and traders domiciled within the jurisdiction of one of the high contracting parties may operate as commercial travelers either personally or by means of agents or employees within the jurisdiction of the other high contracting party on obtaining from the latter, upon payment of a single fee, a license which shall be valid throughout its entire territorial jurisdiction.

In case either of the high contracting parties shall be engaged in war, it reserves to itself the right to prevent from operating within its jurisdiction under the provisions of this article, or otherwise, enemy nationals or other aliens whose presence it may consider prejudicial to public order and national safety.

(b) In order to secure the license above mentioned the applicant must obtain from the country of domicile of the manufacturers, merchants, and traders represented a certificate attesting his character as a commercial traveler. This certificate, which shall be issued by the authority to be designated in each country for the purpose, shall be viséed by the consul of the country in which the applicant proposes to operate, and the authorities of the latter shall, upon the presentation of such certificate, issue to the applicant the national license as provided in section (a).

(c) A commercial traveler may sell his samples without obtaining a special license as an importer.

(d) Samples without commercial value shall be admitted to entry free of duty.

Samples marked, stamped, or defaced in such manner that they can not be put to other uses shall be considered as objects without commercial value.

(e) Samples having commercial value shall be provisionally admitted upon giving bond for the payment of lawful duties if they shall not have been withdrawn from the country within a period of six (6) months.

Duties shall be paid on such portions of the samples as shall not have been so withdrawn.

(f) All customs formalities shall be simplified as much as possible with a view to avoid delay in the despatch of samples.

(g) Peddlers and other salesmen who vend directly to the consumer, even though they have not an established place of business in the country in which they operate, shall not be considered as commercial travelers, but shall be subject to the license fees levied on business of the kind which they carry on.

(h) No license shall be required of—

(1) Persons traveling only to study trade and its needs, even though they initiate commercial relations, provided they do not make sales of merchandise.

(2) Persons operating through local agencies which pay the license fee or other imposts to which their business is subject.

(3) Travelers who are exclusively buyers.

(i) Any concessions affecting any of the provisions of the present article that may hereafter be granted by either high contracting party, either by law or by treaty or convention, shall immediately be extended to the other party.

ARTICLE XV.

(a) Regulations governing the renewal and transfer of licenses issued under the provisions of Article XIV, and the imposition of fines and other penalties for any misuse of licenses may be made by either of the high contracting parties ties whenever advisable within the terms of Article XIV and without prejudice to the rights defined therein.

If such regulations permit the renewal of licenses, the fee for renewal will not be greater than that charged for the original license.

If such regulations permit the transfer of licenses, upon satisfactory proof that transferee or assignee is in every sense the true successor of the original licensee, and that he can furnish a certificate of identification similar to that furnished by the original licensee, he will be allowed to operate as a commercial traveler pending the arrival of the new certificate of identification, but the cancellation of the bond for the samples shall not be effected before the arrival of the said certificate.

(b) It is the citizenship of the firm that the commercial traveler represents, and not his own, that governs the issuance to him of a certificate of identification.

The high contracting parties agree to empower the local customs officials or other competent authorities to issue the said licenses upon surrender of the certificate of identification and authenticated list of samples, acting as deputies of the central office constituted for the issuance and regulation of licenses. The said officials shall immediately transmit the appropriate documentation to the central office, to which the licensee shall thereafter give due notice of his intention to ask for the renewal or transfer of his license, if these acts be allowable, or cancellation of his bond, upon his departure from the country. Due notice in this connection will be regarded as the time required for the exchange of correspondence in the normal mail schedules plus five business days for purposes of official verification and registration.

(c) It is understood that the traveler will not engage in the sale of other articles than those embraced by his lines of business; he may sell his samples, thus incurring an obligation to pay the customs duties thereupon, but he may not sell other articles brought with him or sent to him, which are not reasonably and clearly representative of the kind of business he purports to represent.

(d) Advertising matter brought by commercial travelers in appropriate quantities shall be treated as samples without commercial value. Objects having a depreciative commercial value because of adaptation for purposes of advertisement, and intended for gratuitous distribution, shall, when introduced in reasonable quantities, also be treated as samples without commercial value. It is understood, however, that this prescription shall be subject to the customs laws of their respective countries. Samples accompanying the commercial traveler will be dispatched as a portion of his personal baggage; and those arriving after him will be given precedence over ordinary freight.

(e) If the original license was issued for a period longer than six months, or if the license be renewed, the bond for the samples will be correspondingly extended. It is understood, however, that this prescription shall be subject to the customs laws of the respective countries.

ARTICLE XVI.

There shall be complete freedom of transit through the territories, including territorial waters of each high contracting

party on the routes most convenient for international transit, by rail, navigable waterway, and canal, other than the Panama Canal and waterways and canals which constitute international boundaries of the United States, to persons and goods coming from or going through the territories of the other high contracting party, except such persons as may be forbidden admission into its territories or goods of which the importation may be prohibited by law. Persons and goods in transit shall not be subjected to any transit duty, or to any unnecessary delays or restrictions, and shall be given national treatment as regards charges, facilities, and all other matters.

Goods in transit must be entered at the proper customhouse, but they shall be exempt from all customs or other similar duties.

All charges imposed on transport in transit shall be reasonable, having regard to the conditions of the traffic.

ARTICLE XVII.

Each of the high contracting parties agrees to receive from the other consular officers in those of its ports, places, and cities where it may be convenient and which are open to consular representatives of any foreign country.

Consular officers of each of the high contracting parties shall, after entering upon their duties, enjoy reciprocally in the territories of the other all the rights, privileges, exemptions, and immunities which are enjoyed by officers of the same grade of the most favored nation. As official agents such officers shall be entitled to the high consideration of all officials, national or local, with whom they have official intercourse in the State which receives them.

The Government of each of the high contracting parties shall furnish free of charge the necessary exequatur of such consular officers of the other as present a regular commission signed by the chief executive of the appointing state and under its great seal; and it shall issue to a subordinate or substitute consular officer duly appointed by an accepted superior consular officer with the approbation of his Government, or by any other competent officer of that Government, such documents as according to the laws of the respective countries shall be requisite for the exercise by the appointee of the consular function. On the exhibition of an exequatur, or other document issued in lieu thereof to such subordinate, such consular officer shall be permitted to enter upon his duties and to enjoy the rights, privileges, and immunities granted by this treaty.

ARTICLE XVIII.

Consular officers, nationals of the state by which they are appointed, shall be exempt from arrest except when charged with the commission of offenses locally designated as crimes other than misdemeanors and subjecting the individual guilty thereof to punishment. Such officers shall be exempt from military billetings, and from service of any military or naval, administrative or police character whatsoever.

In criminal cases the attendance at the trial by a consular officer as a witness may be demanded by the prosecution or defense. The demand shall be made with all possible regard for the consular dignity and the duties of the office; and there shall be compliance on the part of the consular officer.

Consular officers shall be subject to the jurisdiction of the courts in the state which receives them in civil cases, subject to the proviso, however, that when the officer is a national of the state which appoints him and is engaged in no private occupation for gain, his testimony shall be taken orally or in writing at his residence or office and with due regard for his convenience. The officer should, however, voluntarily give his testimony at the trial whenever it is possible to do so without serious interference with his official duties.

ARTICLE XIX.

Consular officers, including employees in a consulate, nationals of the state by which they are appointed, other than those engaged in private occupations for gain within the State where they exercise their functions, shall be exempt from all taxes, national, state, provincial, and municipal, levied upon their persons or upon their property, except taxes levied on account of the possession or ownership of immovable property situated in or income derived from property of any kind situated or belonging within the territories of the State within which they exercise their functions. All consular officers and employees nationals of the state appointing them shall be exempt from the payment of taxes on the salary, fees, or wages received by them in compensation for their consular services.

Lands and buildings situated in the territories of either high contracting party, of which the other high contracting party is the legal or equitable owner and which are used exclusively for governmental purposes by that owner, shall be exempt from taxation of every kind, national, state, provincial, and municipal, other than assessments levied for services or local public improvements by which the premises are benefited.

ARTICLE XX.

Consular officers may place over the outer door of their respective offices the arms of their State, with an appropriate inscription designating the official office. Such officers may also hoist the flag of their country on their offices, including those situated in the capitals of the two countries. They may likewise hoist such flag over any boat or vessel employed in the exercise of the consular function.

The consular offices and archives shall at all times be inviolable. They shall under no circumstances be subjected to invasion by any authorities of any character within the country where such offices are located. Nor shall the authorities under any pretext make any examination or seizure of papers or other property deposited within a consular office. Consular offices shall not be used as places of asylum. No consular officer shall be required to produce official archives in court or testify as to their contents.

Upon the death, incapacity, or absence of a consular officer having no subordinate consular officer at his post secretaries or chancellors whose official character may have previously been made known to the government of the State where the consular function was exercised may temporarily exercise the consular function of the deceased or incapacitated or absent consular officer, and while so acting shall enjoy all the rights, prerogatives, and immunities granted to the incumbent.

ARTICLE XXI.

Consular officers, nationals of the state by which they are appointed, may, within their respective consular districts, address the authorities, national, state, provincial or municipal, for the purpose of protecting their countrymen in the enjoyment of their rights accruing by treaty or otherwise. Complaint may be made for the infraction of those rights. Failure upon the part of the proper authorities to grant redress or to accord protection may justify interposition through the diplomatic channel, and in the absence of a diplomatic representative, a consul general or the consular officer stationed at the capital may apply directly to the government of the country.

ARTICLE XXII.

Consular officers may, in pursuance of the laws of their own country, take, at any appropriate place within their respective districts, the depositions of any occupants of vessels of their own country, or of any national of, or of any person having permanent residence within the territories of, their own country. Such officers may draw up, attest, certify, and authenticate unilateral acts, deeds, and testamentary dispositions of their countrymen, and also contracts to which a countryman is a party. They may draw up, attest, certify, and authenticate written instruments of any kind purporting to express or embody the conveyance or encumbrance of property of any kind within the territory of the state by which such officers are appointed, and unilateral acts, deeds, testamentary dispositions and contracts relating to property situated, or business to be transacted, within the territories of the State by which they are appointed embracing unilateral acts, deeds, testamentary dispositions, or agreements executed solely by nationals of the state within which such officers exercise their functions.

Instruments and documents thus executed and copies and translations thereof, when duly authenticated under his official seal by the consular officer shall be received as evidence in the territories of the contracting parties as original documents or authenticated copies, as the case may be, and shall have the same force and effect as if drawn by and executed before a notary or other public officer duly authorized in the country by which the consular officer was appointed; provided, always, that such documents shall have been drawn and executed in conformity to the laws and regulations of the country where they are designed to take effect.

ARTICLE XXIII.

A consular officer shall have exclusive jurisdiction over controversies arising out of the internal order of private vessels of his country, and shall alone exercise jurisdiction in cases, wherever arising, between officers and crews, pertaining to the enforcement of discipline on board, provided the vessel and the persons charged with wrongdoing shall have entered a port within his consular district. Such an officer shall also

have jurisdiction over issues concerning the adjustment of wages and the execution of contracts relating thereto provided the local laws so permit.

When an act committed on board of a private vessel under the flag of the State by which the consular officer has been appointed and within the territorial waters of the State to which he has been appointed constitutes a crime according to the laws of that State, subjecting the person guilty thereof to punishment as a criminal, the consular officer shall not exercise jurisdiction except in so far as he is permitted to do so by the local law.

A consular officer may freely invoke the assistance of the local police authorities in any matter pertaining to the maintenance of internal order on board of a vessel under the flag of his country within the territorial waters of the State to which he is appointed, and upon such a request the requisite assistance shall be given.

A consular officer may appear with the officers and crews of vessels under the flag of his country before the judicial authorities of the state to which he is appointed to render assistance as an interpreter or agent.

ARTICLE XXIV.

In case of the death of a national of either high contracting party in the territory of the other without having in the territory of his decease any known heirs or testamentary executors by him appointed, the competent local authorities shall at once inform the nearest consular officer of the state of which the deceased was a national of the fact of his death, in order that necessary information may be forwarded to the parties interested.

In case of the death of a national of either of the high contracting parties without will or testament, in the territory of the other high contracting party, the consular officer of the state of which the deceased was a national and within whose district the deceased made his home at the time of death shall, so far as the laws of the country permit and pending the appointment of an administrator and until letters of administration have been granted, be deemed qualified to take charge of the property left by the decedent for the preservation and protection of the same. Such consular officer shall have the right to be appointed as administrator within the discretion of a tribunal or other agency controlling the administration of estates provided the laws of the place where the estate is administered so permit.

Whenever a consular officer accepts the office of administrator of the estate of a deceased countryman, he subjects himself as such to the jurisdiction of the tribunal or other agency making the appointment for all necessary purposes to the same extent as a national of the country where he was appointed.

ARTICLE XXV.

A consular officer of either high contracting party may in behalf of his nonresident countrymen receipt for their distributive shares derived from estates in process of probate or accruing under the provisions of so-called workmen's compensation laws or other like statutes provided he remit any funds so received through the appropriate agencies of his Government to the proper distributees, and provided further that he furnish to the authority or agency making distribution through him reasonable evidence of such remission.

ARTICLE XXVI.

A consular officer of either high contracting party shall have the right to inspect within the ports of the other high contracting party within his consular district the private vessels of any flag destined or about to clear for ports of the country appointing him in order to observe the sanitary conditions and measures taken on board such vessels, and to be enabled thereby to execute intelligently bills of health and other documents required by the laws of his country, and to inform his Government concerning the extent to which its sanitary regulations have been observed at ports of departure by vessels destined to its ports, with a view to facilitating entry of such vessels therein.

ARTICLE XXVII.

Each of the high contracting parties agrees to permit the entry, free of all duty and without examination of any kind, of all furniture, equipment, and supplies intended for official use in the consular offices of the other and to extend to such consular officers of the other and their families and suites as are its nationals the privilege of entry free of duty of their baggage and all other personal property, whether accompanying the officer to his post or imported at any time during his incumbency thereof, provided, nevertheless, that no article the importation of which is prohibited by the law of either of the high contracting parties may be brought into its territories.

It is understood, however, that this privilege shall not be extended to consular officers who are engaged in any private occupation for gain in the countries to which they are accredited, save with respect to governmental supplies.

ARTICLE XXVIII.

All proceedings relative to the salvage of vessels of either high contracting party wrecked upon the coasts of the other shall be directed by the consular officer of the country to which the vessel belongs and within whose district the wreck may have occurred. Pending the arrival of such officer, who shall be immediately informed of the occurrence, the local authorities shall take all necessary measures for the protection of persons and the preservation of wrecked property. The local authorities shall not otherwise interfere than for the maintenance of order, the protection of the interests of the salvors, if these do not belong to the crews that have been wrecked, and to carry into effect the arrangements made for the entry and exportation of the merchandise saved. It is understood that such merchandise is not to be subjected to any customhouse charges unless it be intended for consumption in the country where the wreck may have taken place.

The intervention of the local authorities in these different cases shall occasion no expense of any kind, except such as may be caused by the operations of salvage and the preservation of the goods saved, together with such as would be incurred under similar circumstances by vessels of the nation.

ARTICLE XXIX.

Subject to any limitation or exception hereinbefore set forth, or hereafter to be agreed upon, the territories of the high contracting parties to which the provisions of this treaty extend shall be understood to comprise all areas of land, water, and air over which the parties respectively claim and exercise dominion as sovereign thereof, except the Panama Canal Zone; for purposes connected with customs administration the territory of Germany shall be deemed to be coterminous with the area included within the German customs lines.

ARTICLE XXX.

Nothing in the present treaty shall be construed to limit or restrict in any way the rights, privileges, and advantages accorded to the United States or its nationals or to Germany or its nationals by the treaty between the United States and Germany restoring friendly relations, concluded on August 25, 1921.

ARTICLE XXXI.

The present treaty shall remain in full force for the term of ten years from the date of the exchange of ratifications, on which date it shall begin to take effect in all of its provisions.

If within one year before the expiration of the aforesaid period of ten years neither high contracting party notifies to the other an intention of modifying, by change or omission, any of the provisions of any of the articles in this treaty or of terminating it upon the expiration of the aforesaid period, the treaty shall remain in full force and effect after the aforesaid period and until one year from such a time as either of the high contracting parties shall have notified to the other an intention of modifying or terminating the treaty.

ARTICLE XXXII.

The present treaty shall be ratified, and the ratifications thereof shall be exchanged at Washington as soon as possible.

In witness whereof the respective plenipotentiaries have signed the same and have affixed their seals hereto.

Done in duplicate, in the English and German languages, at the City of Washington, this 8th day of December, 1923.

[SEAL.] CHARLES EVANS HUGHES.
[SEAL.] DR. OTTO WIEDFELDT.

RECESS.

Mr. CURTIS. I move that the Senate take a recess until 12 o'clock to-morrow.

The motion was agreed to, and the Senate (at 5 o'clock and 10 minutes p. m.) took a recess until to-morrow, Friday, February 8, 1924, at 12 o'clock meridian.

NOMINATION.

Executive nomination received by the Senate February 7, 1924.

JUDGE OF THE UNITED STATES COURT FOR CHINA.

Milton Dwight Purdy, of Minnesota, to be judge of the United States Court for China, vice Charles Sumner Lobingier.

HOUSE OF REPRESENTATIVES.

THURSDAY, *February 7, 1924.*

The House met at 12 o'clock noon.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

Our heavenly Father, in wrath Thou dost remember mercy. Thou dost live and rule and direct all things and we are Thine to work out Thy will and purpose. Deepen our love for things divine and broaden our sympathy for all who strive. Prepare us for all events and may we rest in Thee and trust the truth. Bless and help us with the assurance that the Judge of all the earth will do right. Through Jesus Christ our Lord. Amen.

The Journal of the proceedings of Tuesday, February 5, 1924, was read and approved.

WOODROW WILSON COLLEGE.

Mr. LANKFORD. Mr. Speaker, I ask unanimous consent to proceed for one minute.

The SPEAKER. The gentleman from Georgia asks unanimous consent to address the House for one minute. Is there objection?

There was no objection.

Mr. LANKFORD. Mr. Speaker and gentlemen of the House, at this time I wish to read into the permanent record of this Congress a highly appreciated telegram which I received this morning, and which is as follows:

VALDOSTA, GA., *February 6, 1924.*

Congressman W. C. LANKFORD,
Washington, D. C.:

Desiring to have in Georgia a memorial to the greatest American of all time the city of Valdosta and the Methodist Church South will establish in Valdosta a college for men to be called Woodrow Wilson College. Nearly one-half million dollars has already been raised.

A. J. STRICKLAND.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Craven, its Chief Clerk, announced that the Senate had passed without amendment the bill of the following title:

H. R. 657. An act granting the consent of Congress to the boards of supervisors of Rankin and Madison Counties, Miss., to construct a bridge across the Pearl River in the State of Mississippi.

FEDERAL CODE OF LAWS.

Mr. LITTLE. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD by publishing a few short letters from Federal judges in regard to a code of laws.

The SPEAKER. The gentleman from Kansas asks unanimous consent to extend his remarks in the RECORD by publishing some letters from Federal judges on the code of laws. Is there objection?

There was no objection.

Mr. LITTLE. Mr. Speaker, the act to establish a code of the laws of the United States, which passed the House January 7 unanimously for the third time, has now been with the Senate one month. The committee hopes to have a hearing for the bill before long. There have been received by the committee many indorsements of the bill by justices of the Supreme Court, judges of the Federal courts, authors, and lawyers of great ability and experience. I present here copies of some of those letters, which repeat the opinion of the House that the bill is meritorious and will be useful.

(The letters referred to are printed, as follows:)

SUPREME COURT OF THE UNITED STATES,
Washington, D. C., February 2, 1924.

Hon. EDWARD C. LITTLE,
House of Representatives, Washington, D. C.

DEAR MR. LITTLE: Thank you for sending me a copy of your bill to codify the laws of the United States, which I am glad to know has passed the House. The work is badly needed, and I hope it may be equally fortunate in the Senate.

You have done such good work and have followed it with such fine determination that you ought to succeed.

Very sincerely yours, GEO. SUTHERLAND.

SUPREME COURT OF THE UNITED STATES,
Washington, D. C., February 2, 1924.

Hon. EDWARD C. LITTLE,
Chairman Committee on Revision of Laws,
House of Representatives, Washington, D. C.

MY DEAR MR. CHAIRMAN: I thank you very much for sending me a copy of the bill (H. R. 12) for the enactment of a code of laws of the United States, in accordance with your letter of January 31. It seems to be a most thorough and admirable codification of the general laws, and I am sure I will find it most useful in my work.

With kindest regards,

Sincerely and cordially yours, EDWARD T. SANFORD.

SUPREME COURT OF THE UNITED STATES,
Washington, D. C., February 3, 1924.

Hon. E. C. LITTLE.

MY DEAR MR. LITTLE: My thanks for your courteous letter and the code. What a tremendous piece of work!

Cordially, LOUIS D. BRANDEIS.

UNITED STATES DISTRICT JUDGE'S CHAMBERS,
EASTERN DISTRICT OF ARKANSAS,
Little Rock, Ark., February 2, 1924.

Hon. EDWARD C. LITTLE, M. C.,
Washington, D. C.

MY DEAR MR. LITTLE: I am glad to hear that the bill codifying the laws of the United States has again passed the House, and sincerely hope that it will be speedily passed by the Senate.

The bill is a real necessity to the Federal bench and lawyers practicing in those courts. Kindly send me a copy of the bill so that I may make use of it by referring to it to ascertain what laws of the United States are in force. I feel justified in doing so, as the bill passed by the House at the last session, of which you kindly sent me a copy, and the amendments enacted later correcting the few mistakes in it have been of great assistance to me.

With kindest regards,

Yours cordially, JACOB TRIEBER,
United States District Judge.

CHAMBERS UNITED STATES DISTRICT JUDGE,
New Orleans, January 17, 1924.

Hon. H. GARLAND DUPRÉ,
House of Representatives, Washington, D. C.

MY DEAR GARLAND: If you can consistently do so, I would very much appreciate you sending me a copy of the bill codifying the Federal laws, which passed the House last Monday. I feel that the bill will be very useful to me whether it ever becomes a law or not, and I would like to have it on my desk.

With kindest regards,

Sincerely yours, RUFUS E. FOSTER.

UNITED STATES COURT OF CUSTOMS APPEALS,
Washington, February 4, 1924.

Hon. EDWARD C. LITTLE,
Chairman Committee on Revision of Laws,
House of Representatives, Washington, D. C.

MY DEAR SIR: Permit me to acknowledge with thanks copy of the revision of laws of the United States, which I received a day or two ago. I am sure it has involved a tremendous amount of work and I am equally sure it is something for which there is a great demand. You and your committee, and whoever else contributed to its production, is entitled to the gratitude of the bench and bar.

Very truly,

ORION M. BARBER.

COURT OF APPEALS OF THE DISTRICT OF COLUMBIA,
Washington, D. C., February 1, 1924.

Hon. EDWARD C. LITTLE,
House of Representatives, Washington, D. C.

MY DEAR SIR: I wish to thank you for your thoughtfulness in sending me a copy of the laws of the United States, which has just passed the House and which is now pending in the Senate. I sincerely trust that this measure will meet with the same consideration in the Senate that it has in the House, as it is certainly very important that there shall be a revision of the laws to date.

I have heard many favorable comments upon the work accomplished by your committee, and I feel assured that it is in every particular a complete and perfect revision of the laws. I have given the copy sent me a place on my desk, feeling assured that it will be a most valuable reference in connection with the prosecution of my duties.

I have the honor to remain,

Very truly yours,

JOSIAH A. VAN ORSDEL.

SUPREME COURT OF THE DISTRICT OF COLUMBIA,
CHAMBERS OF JUSTICE SIDDONS,
February 1, 1924.

Hon. EDWARD C. LITTLE,
Chairman Committee on Revision of Laws,
House of Representatives, Washington, D. C.

DEAR MR. REPRESENTATIVE: I received on yesterday a copy of the proposed act to establish a code of laws of the United States and to-day I received your note of yesterday referring to the matter.

I am obliged to you for letting me have a copy of this monumental undertaking. I trust that the Senate will concur with the House in approval of the bill and that it may speedily become a law.

The code, if adopted, will, of course, be an immense aid to judges, lawyers, and others in promptly ascertaining the statute law of the United States, which now we have to search through acts of legislature and appropriation bills to ascertain what it is on any given subject.

The work involved in preparing this code must have been stupendous and I congratulate you and the committee on the results accomplished.

Very faithfully,

F. L. SIDDONS.

THE UMPIRE, MIXED CLAIMS COMMISSION,
UNITED STATES AND GERMANY,
Washington, D. C., February 1, 1924.

Hon. EDWARD C. LITTLE,
Chairman Committee on Revision of Laws,
House of Representatives, Washington, D. C.

MY DEAR MR. LITTLE: Please let me acknowledge receipt of and thank you for your kind note of yesterday, together with copy of the act to establish a code of the laws of the United States, which I will make an early opportunity to examine and am sure will find useful. Yours is a herculean task and the lawyers and the people generally of the Nation will, I feel sure, be grateful to you for undertaking it.

Yours very sincerely,

EDWIN B. PARKER.

THE AMERICAN RED CROSS,
Washington, D. C., February 5, 1924.

Hon. E. C. LITTLE,
House of Representatives, Washington, D. C.

MY DEAR CONGRESSMAN LITTLE: Thank you very much for sending me a copy of the act to establish a code of the laws of the United States. When I look at this I marvel at the amount of work you must have done.

My kindest regards.

Cordially,

JOHN BARTON PAYNE.

OFFICE OF THE SUPERINTENDENT,
STATE, WAR, AND NAVY DEPARTMENT BUILDINGS,
Washington, February 4, 1924.

Hon. EDWARD C. LITTLE,
Chairman Committee on Revision of Laws,
House of Representatives, Washington, D. C.

DEAR SIR: Receipt is acknowledged of your letter of January 31, and a copy of an act to establish a code of the laws of the United States.

While the act has only been given a cursory examination, I am sure that it will prove to be extremely helpful to this office. A publication such as that contained in the act is badly needed, and it is trusted that it will be passed by the Senate and become a law at an early date.

Very respectfully,

C. O. SHERRILL,
Lieut. Col., Corps of Engrs, U. S. Army,
Superintendent.

CALL OF THE HOUSE.

Mr. QUIN. Mr. Speaker, I make the point that no quorum is present.

The SPEAKER. The gentleman from Mississippi makes the point of no quorum. Evidently there is no quorum present.

Mr. LONGWORTH. Mr. Speaker, I move a call of the House.

The motion was agreed to.

The Clerk called the roll, and the following Members failed to answer to their names:

Almon	Favrot	Lilly	Robsion, Ky.
Brand, Ohio.	Fenn	Lindsay	Romjue
Browne, N. J.	Fish	McClintic	Sanders, Ind.
Buckley	Gallivan	McFadden	Schall
Casey	Garber	Miller, Ill.	Schneider
Clark, Fla.	Hill, Md.	Morris	Sullivan
Cole, Ohio	Hoch	Nolan	Taylor, Colo.
Crowther	Hull, Tenn.	O'Brien	Taylor, Tenn.
Cullen	Jones	Peavey	Ward, N. Y.
Davis, Minn.	Jost	Purnell	Weller
Davis, Tenn.	Kent	Quayle	Williams, Tex.
Dempsey	Kindred	Rathbone	Williams, Ill.
Dominick	Knutson	Rayburn	Winslow
Eagan	Kunz	Reed, Ark.	Wood
Fairfield	Lazaro	Reed, W. Va.	Zihlman

The SPEAKER. Three hundred and seventy-one Members have answered to their names. A quorum is present.

The doors were opened.

ADJOURNMENT UNTIL 11 O'CLOCK A. M. TO-MORROW.

Mr. LONGWORTH. Mr. Speaker, I ask unanimous consent that when the House adjourns to-day it adjourn to meet at 11 o'clock a. m. to-morrow.

The SPEAKER. The gentleman from Ohio asks unanimous consent that when the House adjourns to-day it adjourn to meet at 11 o'clock a. m. to-morrow. Is there objection?

There was no objection.

TAX-EXEMPT SECURITIES.

Mr. SNELL. Mr. Speaker, I desire to call up House Resolution 173, a privileged resolution from the Committee on Rules. And pending that I would like to ask the gentleman from North Carolina if we can agree upon a time for debate on the rule proper.

Mr. POU. I think the tentative agreement that I had with the gentleman from New York will be satisfactory, of half an hour on each side.

Mr. SNELL. Would the gentleman be willing to include in that agreement, as long as we have a roll call on the rule proper, that the previous question shall be considered as ordered on the rule?

Mr. POU. That will be satisfactory to me.

Mr. SNELL. Then, Mr. Speaker, I ask unanimous consent that the debate on the rule be limited to one hour, one-half to be controlled by the gentleman from North Carolina [Mr. POU] and one-half by myself, and at the end of the debate the previous question shall be considered as ordered on the resolution.

The SPEAKER. The gentleman from New York asks unanimous consent that the time for debate on the rule be limited to half an hour on each side, one-half to be controlled by the gentleman from North Carolina [Mr. POU] and one-half by the gentleman from New York [Mr. SNELL], and at the end of that time the previous question shall be considered as ordered. Is there objection?

There was no objection.

The SPEAKER. The Clerk will report the resolution.

The Clerk read the resolution, as follows:

House Resolution 173.

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the joint resolution (H. J. Res. 136) proposing an amendment to the Constitution of the United States; that after general debate, which shall be confined to the joint resolution and shall continue not to exceed eight hours and be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the joint resolution shall be read for amendment under the five-minute rule. At the conclusion of such consideration the committee shall report the joint resolution to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the joint resolution to its final passage without intervening motion except one motion to recommit.

Mr. SNELL. Mr. Speaker——

Mr. GARNER of Texas. Will the gentleman yield?

Mr. SNELL. I will.

Mr. GARNER of Texas. I notice that the rule provides that the debate on the resolution shall be controlled by the chairman of the Committee on Ways and Means and the ranking minority member of the Committee on Ways and Means. Inasmuch as I have some other work to do, I ask unanimous consent that one-half the time be controlled by the gentleman from Arkansas [Mr. OLDFIELD].

Mr. SNELL. That will be satisfactory to the Rules Committee.

The SPEAKER. The gentleman from Texas asks unanimous consent that one-half the time allotted for debate on Joint Resolution 136 be controlled by the gentleman from Arkansas [Mr. OLDFIELD] instead of the ranking minority member of the Ways and Means Committee. Is there objection?

There was no objection.

Mr. SNELL. Mr. Speaker, House Resolution 173, if adopted, simply provides that it shall be in order to move that the House resolve itself into Committee of the Whole House on the state of the Union for the consideration of Joint Resolution 136, proposing an amendment to the Constitution of the United States, which is generally referred to as an amendment prohibiting tax-exempt securities.

The Rules Committee fully appreciates the fact that there are two sides to this proposition and that it should be fully and freely discussed by the membership of this House. They also appreciate the fact that on account of its economic importance, when the tax question is so prominently before the people of the country, and the great interest that the people have shown in this subject, that it should at least be considered here in the House and the various legislatures of the States of the country be given an opportunity to pass judgment upon it. Remember, all House Joint Resolution 136 does is to give

the various States of the Union an opportunity to vote on the question.

The resolution itself is in two sections. The first part of the resolution provides that the United States shall have the power to lay and collect taxes on incomes derived from securities, after the ratification of this article, by or under the authority of any State, but without discrimination against income derived from such securities and in favor of income derived from securities issued after the ratification of this article by or under the authority of the United States or any other State.

In other words, this provides that the United States Government can assess taxes upon incomes from State securities issued after the ratification of this article, which it can not do at the present time, but the really important thing also in the first section is that it must be done without discrimination against incomes derived from other securities issued by the State, any other State, or the Federal Government itself.

The second section provides as follows:

SEC. 2. Each State shall have power to lay and collect taxes on income derived by its residents from securities issued after the ratification of this article by or under the authority of the United States, but without discrimination against income derived from such securities and in favor of income derived from securities issued after the ratification of this article by or under the authority of such State.

This gives the State governments the right to tax Federal securities that might be issued after the time this amendment is adopted, the same as the Federal Government is protected in the first section. The two clauses are absolutely necessary in order to be sure that the tax-levying authority conferred on both the Federal Government and the individual States shall be reciprocal. It seems to me that in this respect the resolution amply takes care of and protects the rights of both the Federal Government and the individual States and that it is entirely a reciprocal proposition.

As we all know, under the Constitution at present it is permissible to issue tax-exempt securities, and this can be done both by the Federal Government and by the State governments and also the political subdivisions of the States, such as counties, towns, cities, and so forth. The Federal Government is not allowed to tax incomes derived from tax-exempt securities issued by the individual States or the political divisions thereof, and the individual States are not allowed to tax incomes received by their several residents from tax-exempt securities issued under the Constitution by the Federal Government.

Under present conditions there are outstanding to-day practically $3,000,000,000 of Federal securities which are totally exempt from taxation. There is in the vicinity of ten to eleven billion dollars of State and municipal bonds that are absolutely tax-exempt securities, and in addition there is in the vicinity of from twelve to fifteen billion dollars of Federal bonds that are partly exempt from taxation. In addition to this great amount, there are being issued each year by the various municipalities and States of the Union in the vicinity of a billion dollars of tax-exempt securities.

The Ways and Means Committee has held very exhaustive hearings on the propositions, and the evidence taken shows that tax associations from practically every State in the Union, the experts on tax situations, men who have made a most careful and painstaking study of the equal distribution of taxes, the National Grange, the American Farm Bureau, and a great many other representative organizations from every part of the country, which have given very careful study to this proposition, are all opposed to the future issuance of these tax-exempt securities. They base their opposition upon the ground of having more equal and fair distribution of taxation among the people, and the desire to close the doors to a certain class of people who are now legally escaping all kinds of taxation. Personally, I am very much in favor of the discontinuance of the issuance of tax-exempt securities, because I am absolutely convinced that it will tend to the more equal distribution of taxation, and especially if it will tend to place a more equitable proportion of the tax upon those people who are best able to bear the burden of taxation. I am opposed to creating a condition where a man in any community with an income, say, of $50,000, derived wholly from tax-exempt securities, will, while yet complying with the law, be free not only from paying part of the Federal and State taxes but also from paying his part of the local taxation for improvements in his own town or village, such as schools, pavements, roads, and so forth. He should bear his share of the taxes where he receives equal benefit from the improvement with the other people in the community. I am also opposed to creating a situation where such a person has an advantage over the average business man in the community who, by careful, dilligent effort, by hard work and by conducting a business that builds up the community, earns, say, ten or fifteen or twenty thousand dollars a year, and has to bear the entire burden of local taxation, where this other person bears none of it, because his income comes from tax-exempt securities. The only way that I can see whereby we can reach the man who has his entire property or a large amount of it tied up in tax-exempt securities is by prohibiting the future issuance of these securities. It is the undisputed fact that large incomes more and more are being invested in these tax-exempt securities, and they are pursuing the avenue of escape that we make for them in the issuance of these tax-exempt securities. It is quite beyond my comprehension to understand how any man in this House who is desirous of maintaining a higher surtax on large incomes, for the purpose as he says of taxing the rich and able to pay, is willing to vote to keep open the only legitimate channel where men who are enjoying these large incomes can escape from taxation of every nature, from national down to school district.

Another objection that is made to this proposition is that it will raise the interest on securities issued by the municipalities and the States. I can not see how that is going to make a very serious change in the rates of these issues, because there is always enough loose funds from various institutions, colleges, hospitals, trustees, estates, and so forth, that are seeking investments in the highest type of securities rather than highest interest-bearing securities. As further evidence of this, you only have to go back to the conditions prevailing before 1916, when the income tax was first levied; they were always able to market these municipal securities at from one-half to sometimes more than 1 per cent less than the average industrial security, which is about the same difference that prevails at the present time. Therefore, I think there will always be ample funds of the character I suggest to take up a reasonable amount of legitimate securities that may be issued by States or the local communities. As a general proposition I believe the rate of interest on these securities is governed more by the amount of the issue and the length of time it has to run and other conditions prevailing at the time of issue than the tax-exempt feature. As far as I am able to learn, all of the experts of the Treasury Department under both parties have agreed that the Federal Government would have put out all their bond issues at practically the same rate if they had not included the tax-exempt feature, and I firmly believe that the whole proposition, as proposed in this constitutional amendment, from an economic standpoint is sound, that it tends to the more equal distribution of the tax burdens upon the whole community, and that this Congress, as far as it is able to, should close the open door through which such a large portion of our citizenry at the present time escapes not only Federal taxes but the State and local taxes in the communities in which they live.

Mr. BUTLER. Mr. Speaker, will the gentleman yield?

Mr. SNELL. Yes.

Mr. BUTLER. What is the estimate now of the amount of these nontaxable securities?

Mr. SNELL. I gave that early in my remarks. There are about $3,000,000,000 of Federal securities which are tax exempt and in the vicinity of ten to twelve billion dollars of State and municipal securities that are tax exempt, and from twelve to fifteen billion dollars of Federal securities that are partially exempt.

Mr. BUTLER. Is there any way by which we can ascertain where the bulk of these securities are held?

Mr. SNELL. I do not know whether there is or not.

Mr. BUTLER. Has the gentleman any information upon the subject that he can give to us?

Mr. SNELL. I regret I have not. I certainly trust the rule will be adopted and the constitutional amendment will be passed, so that the States can vote on this most important proposition affecting the economic life of all our people.

Mr. CLARKE of New York. If the gentleman will permit, is it not true the Treasury Department can furnish that, because in the income-tax returns rendered do not they make a statement there even of the nontaxable securities?

Mr. SNELL. I do not think you can get that from the Treasury Department.

Mr. GREEN of Iowa. Not under the present law.

Mr. SNELL. How much time have I used?

The SPEAKER. The gentleman has used 14 minutes.

Mr. SNELL. I reserve the remainder of my time.

Mr. POU. Mr. Speaker, I yield myself 15 minutes and ask that I be not interrupted.

The SPEAKER. The gentleman declines to be interrupted.

Mr. POU. Mr. Speaker, there should be no misunderstanding relative to the constitutional amendment proposing to prohibit hereafter the issuance of tax-exempt bonds. The proposed amendment to the Constitution saves nobody a single dollar. It does, however, add to the burden of the people. It is a proposal to add new taxes to the already enormous burden which the people are forced to bear. The rule providing for the consideration of this proposed amendment should be defeated, because the proposed constitutional amendment strikes at the very life of those States of the Nation which find it necessary to issue bonds. I feel constrained to say this about this proposed constitutional amendment. The people of the district I represent have honored me with their confidence over a long period of years. If I voted for this amendment I would feel that I had done a great injustice to the people of my district and State. My State has entered upon a program of splendid development. Many millions of bonds have been issued to build hard-surfaced rural highways. Now, when these bonds become due, if this amendment is agreed to by the States, an additional burden will be put upon the people of my State. My State has entered upon a great program of educational development. Within the last month the town of Clayton, in my own county, has voted $100,000 of bonds to build a magnificent new school building. If this constitutional amendment is adopted, and the income from these bonds is taxed, of course the people must pay the additional burden. It is easy to demagogue about tax-free bonds, but let no man think for a moment that this proposed amendment is going to be of any benefit whatever to the agricultural States of the Union. The people must pay the interest on their bonded indebtedness, and in the end the people must pay the principal of the bonds issued. To give the Federal Government control over the credit of the respective States is, to my mind, a monstrous proposition. It means the complete and final destruction of the sovereignty of the States. To give the Federal Government authority to tax the income from bonds issued by the town of Smithfield, for instance, is, to my mind, a proposition so monstrous that I can not understand how any gentleman can support it, yet that is the effect of the proposed amendment.

After many years of struggle and discussion the Wilson administration established the great Federal farm-loan system. The income from these bonds, issued to enable farmers to finance their affairs, would also be subject to taxation under the proposed amendment.

Now, Mr. Speaker, there is something else behind this amazing proposal. It required billions of dollars to finance the war. If I am not mistaken, there are already in existence about $12,000,000,000 of tax-exempt bonds. The very minute this proposed amendment becomes a part of the Constitution there will be an enormous increase in the market value of the $12,000,000,000 of tax-free bonds already issued. Two years ago, when this same amendment was before the House, I said the Trojans were warned to look out for the Greeks when they came bearing gifts. I repeat that warning again here to-day. There has been no demand for this legislation coming from the people. A good deal of propaganda has found its way through the mails. When men who own the $12,000,000,000 of tax-free bonds are clamoring for such an amendment to be adopted, the rank and file of the people may well take warning. [Applause.] It has been stated by men who have made a study of the subject that the very day this amendment is adopted probably a billion and a half dollars will be added to the value of the $12,000,000,000 of tax-free bonds already issued.

This legislation means the ruin of the credit of the agricultural States of the Union. The great commercial centers perhaps will receive enormous benefits. You gentlemen who contemplate voting for this measure who represent agricultural constituencies had better be careful and examine this amendment; because it is loaded, it is loaded with destruction for the agricultural States of this Union.

Where is the end to be, Mr. Speaker, of this process of stripping the States of their power, of their sovereignty, and conferring all power upon the National Government at Washington? Lately the Nation has been amazed at certain developments. Great interests are willing to pay almost any salary if they believe men can serve them in influencing the action of the National Government. This has been brought about by the centralization of power in Washington. [Applause.] I impugn the motives of no man, of course; but I say to you, Mr. Speaker, that I would feel that I had betrayed my people if I supported such an amazing proposal.

To my mind there is not one single logical and proper argument in favor of this legislation. It will, however, kill the credit of the States, the counties, the school districts, and the road districts. It will probably mean the ruin of our Federal farm-loan system. It will add greatly to the burdens of the people of the agricultural States. It will enormously enhance the market value of the $12,000,000,000 of tax-free bonds already issued. It will place under the control of the Federal Government even the bond issues of the towns, the school districts, and the road districts as well.

Feeling this way with respect to this legislation, I ask myself what is my duty. I repeat what I said two years ago. This legislation, to my mind, is so vicious that I would prefer retirement rather than to cast my vote for it.

The only safe course is for each Member of this body to do his duty as God gives him light to see. I shall leave the discussion of this measure by simply saying that I would feel that I had failed in my duty to my people and to my country if I voted for an amendment such as the one which will be considered by the House if the rule is adopted. [Applause.]

Mr. SNELL. Mr. Speaker, I yield eight minutes to the gentleman from Ohio [Mr. BURTON].

Mr. BURTON. Mr. Speaker, I can not share the grave apprehensions of my good friend from North Carolina [Mr. POU] in regard to the results of this amendment. It is not the creation of new taxes, it is a shifting of taxes to the shoulders of those who are more able to bear them. I can not see how or in what way the credit of these different municipalities will be destroyed. Possibly there will be a slight increase in the rate of interest. To-day there are taxed securities which command a rate substantially higher than the tax-free securities. I wish also to call the attention of certain Members from the outlying States, especially in the South, to the unequal rates of interest on tax-free bonds that are already outstanding, and I use as the best illustration those issued in the year 1922. The State of Massachusetts issued $84,000,000 of bonds—by the State, its municipalities, school districts, and so forth—the rate of interest was 3.96 per cent, taking the average of the different issues, large and small. The State of Wisconsin, $24,000,000, at an average rate of 4.7 per cent. The State of South Carolina, $11,000,000, at an average rate of 5.52 per cent. The State of Texas, $55,000,000, at an average rate of 5.61 per cent. The State of New York, the enormous amount of $459,000,000, at the average rate of 4.54 per cent. The State of Oklahoma, $21,000,000, at an average rate of 5.63 per cent. The State of Virginia, $28,000,000, at an average rate of 5.16 per cent. The State of Alabama, $11,000,000, at 5.35 per cent. So that it appears there is a range on tax-free securities from 3.96 per cent in Massachusetts to 5.63 per cent in Oklahoma. What does this prove? That it is the nearness to great investment centers, the sufficiency of credit, the reputation for payment that determines the rate rather than whether a bond is tax free or subject to tax. I next wish to refer to the magnitude, I may say the evil, of this proposition. In the year 1892, according to statistics available, there were issued $83,000,000 only of this class of securities which are tax exempt. In the year 1899 there were $118,000,000, and in the year 1922, $1,026,000,000 of permanent securities and $625,000,000 of temporary certificates, such as those for paving and municipal or other improvements, which are expected to be paid by an assessment that will be levied. Thus there is an increase from $83,000,000 in 1892 to $1,600,000,000 in 1922. Now, this is a great developing country; better provision must be made for schools, for roads, and so forth, but that is a growth which must make us pause and reflect whether the constant incurring of indebtedness reaching these colossal figures does not prove that the municipalities are incurring debts too rapidly, and thus I say even if it does raise the rate of interest, if it creates a note of caution, it is desirable that this change should be made. I must disagree with my good friend that the holders of these tax-free securities are asking for this amendment. I have not heard of one who did. A prominent Standard Oil millionaire died in New York a couple of years ago and of his estate of some $60,000,000 there were $43,000,000 of tax-free securities, nearly all issued by the State of New York. The probability is that he could have loaned this amount on industrial bonds at a rate of 6 per cent. The income derived at the Federal Treasury by the tax normal and surtax on that kind of income would have been $1,450,000, and far from it would his heirs desire to relieve themselves of this existing exemption.

Mr. QUIN. Will the gentleman yield?

Mr. BURTON. I must decline to yield. I call attention to another fact. The enormous increase of these securities has raised the rate of interest. In December, 1899, the average rate was 4.046. In 1922, 5.13, an increase of very nearly 30 per cent. I do not believe there will be any difficulty in these municipalities borrowing at a reasonable rate of interest.

It will probably raise the rates of interest from a fourth to a half per cent, but it will create equality. The Federal Government under this amendment must abate a privilege, that Government that is supreme over all. Should the States and municipalities be treated with favor in comparison with the activities of the Nation? Why not place them on the same footing of equality? Equality, fairness, I may say justice to all, demand that we do away with this discrimination, which is at the same time making a farce of the surtaxes on our larger incomes.

Let me call attention to a few figures on that subject, giving just two years. The incomes over $300,000 in the year 1916 aggregated $992,000,000. In 1921, oh, what a falling off was there—$153,000,000—from $992,000,000 down to $153,000,000. Yet the number of returns increased in those five years from 437,036 to 6,662,176, and the net income of all classes reporting from $6,208,000,000 to $19,577,000,000, more than three times as much. That is not because the country was poorer. That is not because incomes are less. It is because these men with these enormous fortunes are placing their funds in tax-free securities.

The SPEAKER. The time of the gentleman from Ohio has expired.

Mr. ROSENBLOOM. Mr. Speaker, will the gentleman yield? Has the gentleman any statistics——

The SPEAKER. The time of the gentleman from Ohio has expired.

Mr. BURTON. Mr. Speaker, I ask unanimous consent to insert some figures more fully in the RECORD in connection with my remarks.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. POU. Mr. Speaker, I yield three minutes to the gentleman from Pennsylvania [Mr. GRAHAM].

The SPEAKER. The gentleman from Pennsylvania is recognized for three minutes.

Mr. GRAHAM of Pennsylvania. Mr. Speaker, of course the time allotted is not at all adequate to the discussion of a subject of this magnitude; it is not enough to enable one to discuss intelligently this great subject.

I disagree with most of the propositions advanced by the last speaker [Mr. BURTON]. I think the question of equality between the Government of the United States and the governments of the States has no place in this discussion. On the other hand, I think that for the United States Government to surrender its right to issue tax-free securities in times of emergency or crisis is wrong on its part and ought not to be done. [Applause.] And I submit, on the other hand, that for a State to strip itself of so much of its sovereignty as enables it to control the management of its internal affairs is equally a wrong and ought not to be contemplated. [Applause.]

I am opposed to this resolution and also to the amendment. I think the amendment is pernicious in its results. It is along the line of what we have been doing so much of in the past, invading the rights of States on police matters—on all matters—to such a degree that we are destroying the duality of government that the fathers established, and I am opposed to that destruction. [Applause.]

When we take the number of bonds tax free that have been issued and compare them with the number of securities of a general character that have been issued, as $12,000,0000,000 is to $350,000,000,000, how infinitesimal this subject becomes!

I challenge the statement and deny it that these tax-exempt bonds are the refuge of the rich. Many a poor person has invested in these securities for the purpose of having safe securities, although they yield but a small income.

The SPEAKER. The time of the gentleman from Pennsylvania has expired.

Mr. GRAHAM of Pennsylvania. I simply say as my concluding sentence that no State desirous of protecting its internal development or improvement ought ever to vote for or countenance such an amendment. [Applause.]

Mr. SNELL. Mr. Speaker, we have but one more speech on this side. Will the gentleman from North Carolina use some of his time?

Mr. POU. Mr. Speaker, I yield three minutes to the gentleman from Texas [Mr. BLANTON].

The SPEAKER. The gentleman from Texas is recognized for three minutes.

Mr. BLANTON. Mr. Speaker, as a reason and necessity for offering this proposed amendment to the Constitution, its proponents say that the wealthy men of the United States have invested their resources in tax-exempt securities and are thus dodging the legitimate taxes that should be due the Government proportionate to their wealth, and that money is in this way kept out of industrial developments. It is therefore a measure purporting to be aimed against rich tax dodgers.

It may be that the gun is pointed in the right direction. But its cartridge seems to be a blank, for it contains no missile that will ever strike the intended target.

This proposed amendment in no way applies to the $15,000,000,000 tax-exempt securities now existing and now held by the financiers of Wall Street. It is purposely drawn so that it will not affect them adversely, for it is made to apply only to such securities as may be issued after such amendment is adopted. It would not in any way collect any tax from the income of the forty-odd millions of dollars left in tax-exempt securities by the late William Rockefeller, mentioned by the distinguished gentleman from Ohio [Mr. BURTON], nor would it collect any tax from the income of the many millions of dollars which it is estimated that our present Secretary of the Treasury [Mr. Mellon] now has invested in tax-exempt securities, because this amendment is purposely so drawn that it will not apply to them, or to the holdings now withheld from taxation by the many millionaires of the country, for they already own all of such securities they are financially able to absorb, and therefore they have ceased to be interested in any more of such tax-exempt securities being issued, especially when by stopping all additional issues in the future it will automatically enhance the value of their present holdings from $2,000,000,000 to $3,000,000,000 overnight. It is this enormous profit that these financiers expect to enjoy, coming to them overnight by the passage of this amendment, that causes the moneyed interests of the Nation to back this legislation.

WEALTHY FINANCIERS CAN NOT ABSORB PRESENT ISSUE.

Both the chairman [Mr. GREEN of Iowa] and the gentleman from New York [Mr. MILLS] will admit that the very wealthy men of the United States can not now absorb all of the $15,000,000,000 tax-exempt securities already existing. They now have all they want. They now have all that their finances will buy. Since this amendment will not affect them, they will continue to dodge taxes and escape payment of taxes for the next 20 to 50 years, because these securities run from 20 to 50 years. Hence all new issues of tax-exempt securities must be absorbed by the medium rich and those in ordinary circumstances. Hence, let me ask the committee, in what way is this proposed amendment making these rich tax dodgers come up to the lick log and pay on their big incomes? Why, in no way whatever.

I FAVOR AN AMENDMENT THAT WILL REACH THEM.

Mr. Speaker, inasmuch as the present law will not reach these tax dodgers, and in view of the fact that the amendment now proposed by the committee will not reach them, they still would not be reached no matter whether we pass or defeat this amendment. Hence the only way to reach them is through some other proposal. And I offer a substitute that will reach them. And my proposed substitute, when made a part of the Constitution, will in no way hamper or adversely affect the market for tax-exempt securities, will in no way prevent or hinder States or municipalities or farmers' organizations from issuing such securities in the future, and will in no way change the exempt status of income derived from such securities from being not amenable to taxes, and it in no way commits any breach of good faith on the part of the Government concerning such securities, but it merely limits the amount of tax-exempt securities any person or corporation may accumulate and hold and thereby escape paying taxes on the income derived from same.

GOVERNMENTS DO NOT EXPECT LOYAL CITIZENS TO DODGE PAYMENT OF ALL TAXES.

For instance, loyal citizens can not contend that it was to be expected that simply because certain necessary securities for the development of municipalities were exempted from taxation that loyal citizens of great wealth would invest all their millions of dollars in such securities so as to avoid having to pay any taxes whatever to the Government, but it was expected that such securities would be distributed and absorbed by the whole people of the Government, and that men of great wealth would not conspire against their Government to relieve themselves of all duties and obligations as citizens. But the death of Mr. William Rockefeller demonstrated that one wealthy man purposely invested over forty-odd million of dollars in tax-exempt securities in order to escape the payment of taxes to the Government, and it is estimated that Mr. John D. Rockefeller has over $60,000,000 in tax-exempt securities.

And since the Secretary of the Treasury, Mr. Mellon, has seen fit not to accept the challenge of Senator COUZENS to make

public the amount of his great wealth that he has invested in tax-exempt securities, it may be presumed that he is escaping taxation on quite an enormous sum. The policy of this Government against such practices should be expressed in its Constitution.

MY SUBSTITUTE HAS TEETH.

When the proper time comes I shall offer as a substitute for the committee proposal the following:

SECTION 1. The United States shall have power to lay and collect taxes on income derived from all tax-exempt securities owned by any person or corporation in excess of the maximum amount of such securities which Congress by appropriate legislation shall determine may be owned by a person or corporation free from taxation. And when Congress determines the maximum amount of tax-exempt securities which may be owned free from tax on income by a person or corporation the income from all tax-exempt securities in excess of such maximum owned by any person or corporation shall respond to the same rate of taxation as income derived from all other sources.

And with such an amendment as the above to our Constitution I am in favor of this Congress then passing a law fixing $100,000 as the maximum amount of tax-exempt securities any person or corporation may own. This would prevent tax dodging, would not interfere with the right of States and municipalities to issue securities, and would not hurt the market for same in any way.

Now what objection has any Member to offer to the above substitute? Any State or municipality or farm land bank would still have every right and privilege they now enjoy of issuing tax-exempt securities. And their market would be improved immediately, for every man of wealth, the ordinary rich man, the medium rich man, and the quarter-of-way millionaire and the half and three-quarters-of-the-way millionaire would all become anxious to own a goodly slice of tax-exempt securties, and they would buy from the ultrarich, who were forced to dispose of some of their present holdings, and would also buy with readiness all new issues. So neither the right to issue nor the market would be affected by my substitute.

BUT IT WOULD REACH THE HOARDING TAX DODGERS.

The committee claim in their report that it is the tax dodger they are after mainly. If they are after him, then why not get him? With my proposal adopted the William Rockefeller heirs, now owning the forty-odd millions of tax-exempt securities, will know that if they continue to hold same only the income from as much as $100,000 would be exempt. Therefore they would dispose of the surplus above $100,000 if they did not want to pay the tax upon the income of such surplus. If they were willing to pay the tax on the income of the securities in excess of the $100,000 limit, they could continue to own just as much as they were able to buy.

BUT PASSAGE WOULD SPASM RICH PROPONENTS.

But passage of my substitute would throw some of the rich proponents of this Green resolution into a spasm. And if there is a record vote on my proposition you will see them all voting against it. For its passage would make every rich tax dodger come out from behind his hoardings of $40,000,000 in tax-exempt securities and pay taxes on the income of all of same except the $100,000, which maximum could be allowed because of the benefit the public receives from finding a ready market for the sale of bonds.

PEOPLE EVERYWHERE DEMANDING THAT RICH PAY THEIR PROPORTIONATE TAXES.

Mr. Speaker, as I said in the beginning, the passage of the Green resolution will afford no relief, but destroy the credit of States and municipalities. If we should pass the Green resolution, the financiers of Wall Street would continue to hold their $15,000,000,000 tax-exempt securities and pay no tax on same, and would at the same time reap the harvest of an overnight extra profit of $2,000,000,000 to $3,000,000,000 enhancement in value we would cause to accrue to their holdings by the mere passage of this proposal, and they would continue to be the same tax dodgers, dodging taxes on the same income from the same securities that are now involved, and we would not improve on the situation at all.

While, on the other hand, if we defeat the Green resolution the same situation would exist as to tax dodging, with no remedy afforded whatever. What the people of the United States are demanding is a remedy to be applied. I offer a remedy. What excuse have my colleagues to offer for not applying it? Is it not a good remedy? Will it not make Rockefellers pay taxes on the income from all of their forty-odd million dollars except $100,000 of same? Then, if it would do that, does it not reach the tax dodgers? And if it thus reaches the tax dodgers, then why is it not a proper remedy?

I shall of course vote against the Green resolution. And I believe that it will be defeated by the vote of the House. But I sincerely hope that my colleagues will see fit to support the substitute I offer, for the people are demanding proper action.

Our Government during the war limited the amount of war-savings certificates which any person could buy to a maximum of $1,000. This action forced same to be distributed among the people. And if Congress would limit the amount of tax-exempt securities that may be owned by any person or corporation to a maximum of $100,000, it would result in an equitable distribution of same all over the United States and stop this millionaire tax dodging.

The SPEAKER. The time of the gentleman from Texas has expired.

Mr. POU. Mr. Speaker, I yield the remainder of my time to the gentleman from Tennessee [Mr. GARRETT].

The SPEAKER. The gentleman from Tennessee is recognized.

Mr. GARRETT of Tennessee. Mr. Speaker, I can not escape the feeling that the proponents of this amendment have been swept off their feet by a temporary financial condition and have lost sight of the great fundamental principles upon which these dual governments of ours rest.

What is the proposition before us? An amendment to the organic law—putting an economic amendment into the organic law. Let me advert for just a moment to the suggestion made by the gentleman from Texas [Mr. BLANTON] that you put into the Constitution of the United States a provision as to amounts—$100,000. Fifteen years ago, with Germany on a gold basis, $100,000 was worth $100,000, but what is $100,000 worth in Germany to-day? The preposterousness of putting some fixed amount into the organic law!

But what is this amendment?

The United States shall have power to lay and collect taxes on income derived from securities issued after the ratification of this article by or under the authority of any State, but without discrimination against income derived from such securities and in favor of income derived from securities issued after the ratification of this article by or under the authority of the United States or any other State.

SEC. 2. Each State shall have power to lay and collect taxes on income derived by its residents from securities issued after the ratification of this article by or under the authority of the United States, but without discrimination against income derived from such securities and in favor of income derived from securities issued after the ratification of this article by or under the authority of such State.

Mr. Speaker, this is the first time in the history of this country that it has ever been proposed to commingle the powers of Government in such form as it is here proposed to do. I am equally opposed to both propositions. [Applause.]

My friend from North Carolina [Mr. POU] laid special emphasis upon the power that was given here to destroy the credit of the States and the subdivisions of the States. That is true, and it can not, in fact, be reciprocal.

That is a delusion and a snare in the main, and why? Because your counties, your municipalities, your drainage districts, and your school districts have no income tax, and so they can not levy any tax upon the income from bonds issued by the Federal Government. Would anyone have it possible, if they wished so to do and even if the States were willing to amend their constitutions to enable their subdivisions to issue bonds? I would not. I believe in State rights, but I also believe in national integrity and power. [Applause.] And never, never, so help me God, shall I be willing to vote to put any item of control over the credit of this great sovereign power in either State or subdivision of State. [Applause.]

What does it mean in history? Ah, you know very well that a large section of this country in 1812, representing in large degree the wealth of the country, was opposed to the War of 1812. You recall that in the emergency of the Mexican War there was intense opposition in a very large number of States, representing the very wealthy interests, to that war. Let a modern war come now to which any large element of the wealthy States was in part opposed and they would utilize this power to destroy the credit of the National Government when it was fighing for its very existence. [Applause.] It is objectionable from that standpoint and, of course, it is objectionable from the standpoint of giving to the Federal Government control over the credit of a sovereign State, because when you have destroyed credit or when you have given control over the credit of a sovereignty to some other body you have substantially wiped out the last vestige of that sovereignty. [Applause.]

This matter should not proceed upon economic lines; but if it should proceed upon that, may I say, somewhat sordid basis I venture to call gentlemen's attention—who may have been

temporarily swayed by the prejudice that exists here and there against tax-exempt securities—to this situation: We are now issuing bonds under the authority of the Government of the United States, from which moneys are derived to be loaned to the agricultural interests of this country, and those bonds are tax exempt by virtue of the authority of the United States. Let this amendment pass and let Congress undertake to enforce the power, and at once you must cease to issue those tax-exempt bonds. You could not do it logically, anyway; but even if you could do it logically, you could not do it under the terms of this amendment, and you will enhance the interest that will be paid by all the agricultural interests of this country for their loans.

I do not wish, however, to rest my opposition wholly upon this basis. I am trying to cast my vision into the future. The great thing done by the Constitution builders of this Republic was the nicety with which they balanced the powers of government between State and Nation, and we shall not be in danger and our liberties will never be in danger so long as you can keep those powers properly distributed. [Applause.]

Once you centralize them in a single Government, once you give the power over the credit of your States into the hands of Congress and Congress begins to exercise that power, and thus wipe out even the shadow of the sovereignty of your States—when you have centralized all your governmental power you have given to the enemies of the institutions of this country a single point at which to strike, and God knows, when we do that, I fear for the issue. [Applause.]

Oh, Mr. Speaker, this is a great and a grave question. It goes far beyond any temporary economic situation. It lies within the power of any State now to tax securities issued by a State. New York can tax the income derived from the securities of my State now if it chooses so to do, but it can not tax the income derived from the securities of the Federal Government, and it ought not to be able to tax the income derived from the securities of the Federal Government and thus affect the credit of this great Nation. [Applause.]

Ah, Mr. Speaker, we must try to cast our visions beyond the temporary financial disarrangement of the day and study these things of organic law in the light of the history that is and in the vision of the history that is to be. [Applause.]

I do not like to think of this mighty Republic, fruit of precious blood, such as was spilled on this earth about us, as a painting upon canvas whose fiber, if exposed to the storms of heaven, will rot or the colors of which painting will fade in seasons of burning sunlight. I rather wish to think of it as a great mosaic composed of eight and forty imperishable gems possessing all the beautiful colors and wondrous tints of nature, so cemented together with law and love and patriotic zeal as to make the great work itself indestructible, however vigorously the rains of riot may beat upon it, however fiercely the blistering sun rays of envy may seek to pierce it, however strongly the tempest of human passion may assail it.

[Applause.]

Mr. SNELL. Mr. Speaker, how much time have I remaining?

The SPEAKER. Eight minutes.

Mr. SNELL. I yield the same to the gentleman from Ohio [Mr. LONGWORTH].

The SPEAKER. The gentleman from Ohio is recognized for eight minutes.

Mr. LONGWORTH. Mr. Speaker, I do not have to go back to the War of 1812 to found my support of the resolution which this rule seeks to make in order. I only have to go back a few years since the time when Congress has seen fit to put an income tax so high upon the incomes of very rich men in time of peace that they refuse to pay it if they can find some means of dodging it, legitimate or otherwise.

Let me see if I can put in plain, homely language just what this situation is, which I conceive to be one of the greatest economic evils in the Republic. It is estimated, gentlemen, that about 7,000,000 people of this country earn an income of somewhere between $50 and $200 a week. Let us say the average is $50 a week and conceive of the amalgamation of all these 7,000,000 people into one entity.

What happens at tax time? The tax collector approaches that entity and asks, "How much money did you make last year," and he says, "Twenty-five hundred dollars." The tax collector says, "How did you get it?" and he says, 'I earned it." "In that case," says the collector, "walk up to the counter and pay $300,000,000." Now, take the contrary side and conceive of the entity of that small class of persons in this country, but ever growing and consisting largely of the very rich men. That entity approaches the tax collector who asks, "How much money did you get last year?" and he says, "$100,000." "How did you get it?" "Why, I got it from investments in municipal or State securities which the Constitution says are nontaxable." "All right," says the tax collector, "pass on; you have nothing to pay."

That is the situation, gentlemen, under our tax laws to-day. The man who either earns his income or derives it from investment in industrial enterprises which furnish employment to labor, which furnish things that the people want, is taxed; but the man who puts all his money into State, municipal, and other securities that are nontaxable, pays no tax whatever, and the worst consequence of all, gentlemen, is that it is slowly but surely putting more and more of the burden upon the men who earn their incomes; in fact, last year nearly twice as much tax, relatively, was paid by people who earned their incomes. Why, the illustration is perfectly clear. It was brought out by the gentleman from New York [Mr. MILLS] the other day. The estate of William G. Rockefeller amounted to about $60,000,000, and $50,000,000 of it was in tax-exempt securities. He paid no taxes on that $50,000,000, and the amount must have been raised by a distribution among the people less able to pay it, of the amount he saved.

There are only two remedies for this situation, gentlemen. One is to reduce the income tax on the very rich to a point where they will be willing to have their money in productive investment and pay the tax. We all know that this Congress is not prepared yet to approach that point. There is only one other solution of the difficulty, and that is to pass this constitutional amendment which will make these incomes taxable. There are no other alternatives, gentlemen.

At least let us give the people a chance to vote on this proposition. All we do in passing this resolution is to enable the people of the States to decide whether or not they want to remedy this great and growing evil in this way.

Gentlemen say it may interfere with the right of municipalities to issue bonds for necessary improvements. Why, it has never interfered yet. There has never been a day when good municipal bonds were not more valuable than industrial bonds, and there never will be if this resolution is adopted. All this will do will be to make it less desirable for very rich men to dodge their taxes altogether by investing in nontaxable securities. It seems to me that the proposition is beyond argument, gentlemen, and that we ought to adopt this resolution. [Applause.]

The SPEAKER. By agreement, the previous question is ordered. The question is on agreeing to the rule.

Mr. GARRETT of Tennessee. I ask for the yeas and nays, Mr. Speaker.

The yeas and nays were ordered.

The question was taken; and there were—yeas 225, nays 133, answered "present" 2, not voting 71, as follows:

YEAS—225.

Aldrich	Dyer	Johnson, S. Dak.	Morin
Allen	Edmonds	Johnson, Wash.	Murphy
Andrew	Elliott	Johnson, W. Va.	Nelson, Me.
Arnold	Evans, Iowa	Kendall	Nelson, Wis.
Bacon	Evans, Mont.	Ketcham	Newton, Minn.
Barbour	Faust	Kless	Newton, Mo.
Beck	Fish	Kincheloe	Nolan
Beers	Fisher	Knutson	O'Connell, R. I.
Begg	Fitzgerald	Kopp	O'Connor, La.
Berger	Fleetwood	Kurtz	O'Sullivan
Bixler	Foster	LaGuardia	Parker
Black, Tex.	Frear	Larsen, Ga.	Parks, Ark.
Britten	Fredericks	Larson, Minn.	Patterson
Browne, Wis.	Free	Lea, Calif.	Perkins
Burdick	Freeman	Leatherwood	Perlman
Burtness	French	Leavitt	Phillips
Burton	Frothingham	Lehlbach	Porter
Butler	Fulbright	Lineberger	Purnell
Byrns, Tenn.	Fuller	Little	Ramseyer
Cable	Funk	Longworth	Ransley
Campbell	Garber	Lowrey	Reece
Canfield	Gibson	Lozier	Reed, N. Y.
Carter	Gifford	Luce	Reid, Ill.
Celler	Gilbert	McKenzie	Roach
Chindblom	Green, Iowa	McLaughlin, Mich.	Robinson, Iowa
Christopherson	Greene, Mass.	McLaughlin, Nebr.	Rogers, Mass.
Clague	Greenwood	McLeod	Rubey
Clarke, N. Y.	Griest	McReynolds	Sabath
Cleary	Hadley	MacGregor	Salmon
Cole, Iowa	Hardy	MacLafferty	Sanders, Ind.
Colton	Hastings	Madden	Sanders, N. Y.
Connolly, Pa.	Haugen	Magee, Pa.	Sanders, Tex.
Cooper, Wis.	Hawley	Magee, N. Y.	Schafer
Cooper, Ohio	Hersey	Major, Ill	Scott
Cramton	Hickey	Manlove	Sears, Nebr.
Crisp	Hill, Wash.	Mapes	Seger
Curry	Holaday	Mead	Shreve
Dallinger	Howard, Okla.	Merritt	Simmons
Darrow	Huddleston	Michaelson	Sinclair
Denison	Hudson	Michener	Sinnott
Dickinson, Iowa	Hull, Iowa	Miller, Wash.	Smith
Dickinson, Mo.	Hull, Morton D.	Mills	Snell
Dickstein	Hull, William E.	Moore, Ill.	Snyder
Dowell	Jacobstein	Moore, Ohio	Speaks
Doyle	James	Moores, Ind.	Sproul, Ill.
Driver	Johnson, Ky.	Morgan	Sproul, Kans.

Stalker	Thatcher	Vincent, Mich.	Williams, Ill.
Stengle	Thomas, Ky.	Voigt	Williams, Mich.
Stephens	Thompson	Wainwright	Williamson
Strong, Kans.	Tilson	Wason	Woodruff
Strong, Pa.	Timberlake	Watkins	Wright
Summers, Wash.	Tincher	Watres	Wurzbach
Swank	Tinkham	Watson	Wyant
Swing	Underwood	Welsh	Young
Taber	Vaile	Wertz	
Tague	Vare	White, Kans.	
Taylor, W. Va.	Vestal	White, Me.	

NAYS—133.

Abernethy	Cummings	King	Raker
Ackerman	Davey	Lanham	Rankin
Allgood	Davis, Tenn.	Lankford	Rayburn
Almon	Deal	Lazaro	Richards
Aswell	Doughton	Lee, Ga.	Rosenbloom
Ayres	Drane	Linthicum	Rouse
Bacharach	Drewry	Logan	Sandlin
Bankhead	Dupré	Lyon	Schneider
Barkley	Eagan	McClintic	Sears, Fla.
Bell	Fairchild	McKeown	Shallenberger
Black, N. Y.	Fulmer	McNulty	Sherwood
Bland	Gardner, Ind.	McSwain	Sites
Blanton	Garner, Tex.	McSweeney	Smithwick
Bloom	Garrett, Tenn.	Major, Mo.	Stengall
Bowling	Garrett, Tex.	Mansfield	Sumners, Tex.
Box	Gasque	Martin	Thomas, Okla.
Boyce	Geran	Milligan	Tillman
Boylan	Glatfelter	Minahan	Tucker
Brand, Ga.	Goldsborough	Mooney	Tydings
Briggs	Hammer	Moore, Ga.	Upshaw
Browning	Harrison	Moore, Va.	Vinson, Ga.
Brumm	Hawes	Morehead	Vinson, Ky.
Buchanan	Hayden	Morrow	Ward, N. C.
Bulwinkle	Hill, Ala.	O'Connell, N. Y.	Weaver
Busby	Hooker	O'Connor, N. Y.	Williams, Tex.
Byrnes, S. C.	Howard, Nebr.	Oldfield	Wilson, Ind.
Cannon	Hudspeth	Oliver, N. Y.	Wilson, La.
Carew	Humphreys	Oliver, Ala.	Wilson, Miss.
Collier	Jeffers	Peery	Wingo
Collins	Johnson, Tex.	Pou	Wolff
Cook	Jones	Prall	Woodrum
Corning	Keller	Quin	
Croll	Kent	Ragon	
Crosser	Kerr	Rainey	

ANSWERED "PRESENT"—2.

Stevenson	Underhill

NOT VOTING—71.

Anderson	Fairfield	Langley	Schall
Anthony	Favrot	Lilly	Stedman
Beedy	Fenn	Lindsay	Sullivan
Boies	Gallivan	McDuffie	Sweet
Brand, Ohio	Graham, Ill.	McFadden	Swoope
Browne, N. J.	Graham, Pa.	Miller, Ill.	Taylor, Colo.
Buckley	Griffin	Montague	Taylor, Tenn.
Casey	Hill, Md.	Morris	Temple
Clancy	Hoch	O'Brien	Treadway
Clark, Fla.	Hull, Tenn.	Paige	Ward, N. Y.
Cole, Ohio	Jost	Peavey	Wefald
Connally, Tex.	Kahn	Quayle	Weller
Connery	Kearns	Rathbone	Winslow
Crowther	Kelly	Reed, Ark.	Winter
Cullen	Kindred	Reed, W. Va.	Wood
Davis, Minn.	Kunz	Robsion, Ky.	Yates
Dempsey	Kvale	Rogers, N. H.	Zihlman
Dominick	Lampert	Romjue	

So the resolution was agreed to.

The Clerk announced the following pairs:

Mr. McFadden (for) with Mr. Stevenson (against).
Mr. Dempsey (for) with Mr. Graham of Pennsylvania (against).
Mr. Treadway (for) with Mr. McDuffie (against).
Mr. Davis of Minnesota (for) with Mr. Cullen (against).
Mr. Miller of Illinois (for) with Mr. Kindred (against).
Mr. Cole of Ohio (for) with Mr. Quayle (against).
Mr. Paige (for) with Mr. Sullivan (against).
Mr. Fenn (for) with Mr. Weller (against).
Mr. Swoope (for) with Mr. Griffin (against).
Mr. Ward of New York (for) with Mr. Lindsay (against.

General pairs:

Mr. Langley with Mr. Clark of Florida.
Mr. Reed of West Virginia with Mr. Romjue.
Mr. Winslow with Mr. Taylor of Colorado.
Mr. Hill of Maryland with Mr. Montague.
Mr. Peary with Mr. Reed of Arkansas.
Mr. Temple with Mr. Hull of Tennessee.
Mr. Kahn with Mr. Buckley.
Mr. Boies with Mr. Favrot.
Mr. Kearns with Mr. Lilly.
Mr. Robsion of Kentucky with Mr. Morris.
Mr. Taylor of Tennessee with Mr. Rogers of New Hampshire.
Mr. Lampert with Mr. Kunz.
Mr. Graham of Illinois with Mr. Dominick.
Mr. Wood with Mr. Gallivan.
Mr. Fairfield with Mr. Browne of New Jersey.
Mr. Anthony with Mr. Jost.
Mr. Hoch with Mr. Connery.
Mr. Crowther with Mr. O'Brien.
Mr. Sweet with Mr. Casey.
Mr. Rathbone with Mr. Stedman.
Mr. Beedy with Mr. Clancy.
Mr. Kelly with Mr. Kvale.
Mr. Yates with Mr. Wefald.

The result of the vote was announced as above recorded.

Mr. GREEN of Iowa. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of House Joint Resolution 136, proposing an amendment to the Constitution of the United States.

The motion was agreed to.

Accordingly the House resolved itself into Committee of the Whole House on the state of the Union, with Mr. LEHLBACH in the chair.

The CHAIRMAN. The Clerk will report the resolution.

The Clerk read as follows:

House Joint Resolution 136.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States:

ARTICLE —.

SECTION 1. The United States shall have power to levy and collect taxes on income derived from securities issued after the ratification of this article by or under the authority of any State, but without discrimination against income derived from such securities and in favor of income derived from securities issued after the ratification of this article by or under the authority of the United States or any other State.

SEC. 2. Each State shall have power to lay and collect taxes on income derived by its residents from securities issued after the ratification of this article by or under the authority of the United States, but without discrimination against income derived from such securities and in favor of income derived from securities issued after the ratification of this article by or under the authority of such State.

Mr. GREEN of Iowa. Mr. Chairman, the question before us is not sectional and not a political one, but it is one that is vital to the interests of this country. The amendment which I have proposed to the Constitution of the United States strikes at an evil which is certain, if not checked, to eventually undermine the foundations upon which our institutions rest and bring the whole mighty edifice down in utter ruin.

In considering this amendment to the Constitution, intended to prevent the further issuance of tax-exempt securities, it becomes necessary for me to briefly review conditions in this country with reference to taxes upon incomes. The first income tax ever levied in this country, as gentlemen are aware, was levied during the Civil War. It was a very light tax and was repealed shortly after the close of the war. In President Cleveland's time another income tax was levied which was afterwards declared unconstitutional by the Supreme Court. Since that time until the present there has been no effort made to levy any tax upon the incomes from the great and growing volume of State and municipal securities. The volume of tax-exempt securities has been increasing until it has reached the enormous sum of $13,000,000,000.

Mr. Chairman, how times do change. We find this amendment opposed principally by Members from the South, but when what is commonly known as the income tax amendment—the sixteenth amendment—to the Constitution was proposed it was first offered by a gentleman from South Carolina by the name of Butler. It was supported almost unanimously in the South; its strongest opponents were in the North. And yet that amendment was universally believed to confer powers with reference to taxation of State and municipal securities far beyond anything that is proposed in the present amendment. At that time it was almost universally conceded that the sixteenth amendment, if adopted, would give the United States complete power to tax the bonds and securities of the several States at any rate it pleased, even to destruction, had it seen fit to take such a foolish and ridiculous course, and yet scarcely a voice in the South was raised against it.

Why all this clamor at the present time? Why all this strange union and clasping of hands between the multimillionaires of the North and the farmers of the South by gentlemen who claim here to represent them? The simple and plain reason is that these gentlemen are misled and the people whom they represent are deceived. They think that they are getting some benefit out of the present conditions. They believe they would, if this amendment was adopted, have to pay 1 or 2 per cent more on the amount which local municipalities now pay. And yet let me say to gentlemen who entertain that belief that you have only to look on the stock-market quotations to undeceive yourselves.

The city of Galveston to-day has its bonds quoted on the New York stock market at a rate yielding 5 per cent. They are tax free. Canadian city bonds, such as those of Montreal and Winnepeg, are offered on the market at the same time at a rate which will yield 5.21 per cent. The bonds of the Union Station in the city of Chicago are offered on the market to yield

only 5.13. The Canadian bonds are taxable, the bonds of the city depot are taxable, and there is only a fraction of a point difference between the interest rates which they yield and the return from the bonds of the Texas city, yet Galveston bonds are high-grade bonds. Texas has many large cities, but I doubt whether any of them borrow at as low a rate, and its small towns pay much higher.

What is the cause of this? It is perfectly plain. The price of wheat is determined by the surplus. The price of corn is determined by the surplus, and every farmer knows that. The price of municipal bonds, State bonds, of tax-exempt securities generally is determined by the surplus of such which the people of great wealth can not absorb.

Do any of you gentlemen mean to tell me that this enormous amount of $13,000,000,000 can be all absorbed by the great investors? On the contrary, one gentleman who is opposed to the amendment has in this debate asserted very correctly that a large proportion of these bonds are taken by parties having small means. The fact is that the great investors could not carry half of this stupendous amount. The consequence is that the price is fixed by the price which the smaller investor can and will pay, and not by the price which the big investor might pay, because he does not have to pay it, and he will not pay it. The result is that men of great wealth get these bonds for a little more than they would pay for taxable bonds.

The State of Texas issued last year, if I remember right, about $55,000,000 of bonds. When Mr. William Rockefeller died he had $44,000,000 worth of tax-exempt bonds as a part of his estate. He held no bonds of the State of Texas, but a man of his wealth could have taken the whole issue. If they were all taken care of by men of about the same wealth as William Rockefeller, how much would have been saved to them? About $1,600,000 a year, and did the State of Texas get any part of that $1,600,000 a year saved to them? It did not, nor did it save any considerable sum in any way by issuing these bonds tax free. The people who sold those bonds, the people of the State of Texas, the people in States similarly situated, simply made a present of over $1,000,000 a year to men who were in the situation of Mr. William Rockefeller. That is all there was to it. If Mr. Rockefeller had paid the price he ought to have paid in order to compensate for the benefits that he received on a similar amount of tax-exempt bonds, he would have reduced the interest rate on his securities to about 3 or 3½ per cent. Instead of that he got bonds that were worth to him 9 or 10 per cent at the very lowest.

Some people have claimed that this amendment will raise the rates on the loans made by the Federal land banks and the joint-stock land banks. Let me explain in the outset just what the situation is with reference to these banks. The exemption which is granted to their bonds from taxation was granted by the Congress, and it can be taken away at any time. The amendment has nothing to do with it directly, but I want to be very frank with everyone in the House and say that the ultimate effect of this amendment, of course, will be to take away the exemption which is now granted to farm-loan bonds.

Mr. DOUGHTON. Mr. Chairman, will the gentleman yield?

Mr. GREEN of Iowa. Yes.

Mr. DOUGHTON. Does the gentleman from Iowa favor taking away from the farmer the privilege of these bonds being tax exempt?

Mr GREEN of Iowa. If the gentleman will permit, I shall explain the situation exactly.

Mr. DOUGHTON. It needs explanation.

Mr. GREEN of Iowa. Not in my State. The farmers in my State understand the situation. They do not want to make any presents to men like Rockefeller or other men of great wealth for the insignificant benefit they can possibly get out of this situation. Does the gentleman know that the American Farm Bureau, that the National Grange, that the labor organizations, all favor this amendment, as well as every tax association that ever met, as well as every prominent student of taxation?

Mr. BYRNES of South Carolina. Mr. Chairman, will the gentleman yield?

Mr. GREEN of Iowa. Yes.

Mr. BYRNES of South Carolina. Is it not a fact that the conference called by President Harding, held here in the city of Washington about a year ago, adopted a resolution against it, and principally because of this farm-loan proposal which the gentleman now speaks of?

Mr. GREEN of Iowa. I do not know anything about that. I do not think so.

Mr. BYRNES of South Carolina. That is the fact.

Mr. GREEN of Iowa. That conference did not represent the farmers at large.

Mr. BYRNES of South Carolina. It was called by President Harding and in his opinion represented the agriculturists in America.

Mr. GREEN of Iowa. I know that time and time again the organizations of which I speak have petitioned for this amendment. The farmers in my State do not ask special favors nor do the farmers of any State. They say that all they ask is to be put on an equality, and if the privilege of tax exemption is taken from other bonds they are willing that the bonds of the land banks should be put on the same level. Gentlemen ought to know that since this great mass of tax-exempt securities has been dumped onto the market—$1,300,000,000 issued last year and the amount continually rising—as this great wave advances that farm-loan bonds can not be sold for the price they brought before, and they will not bring the price of some first-class securities not tax exempt which I could mention.

Mr. LOZIER. Mr. Chairman, will the gentleman yield?

Mr. GREEN of Iowa. Yes.

Mr. LOZIER. Answering the gentleman from South Carolina [Mr. BYRNES], in order that history may not be perverted, I will say that the agricultural conference to which he refers went on record in favor of an amendment to the Constitution prohibiting tax-exempt securities, but added a proviso that it be made so as not to apply to farm loans. It did adopt in principle this amendment.

Mr. GREEN of Iowa. Of course, if this amendment were adopted, it would not affect the bonds already issued. There must come a time, and that very shortly, when these organizations will have issued all the bonds that they need.

Mr. BLANTON. Mr. Chairman, will the gentleman yield?

Mr. GREEN of Iowa. Yes.

Mr. BLANTON. The gentleman said that big finance did not absorb the $13,000,000,000 which already exists in tax-exempt securities. How much can it absorb?

Mr. GREEN of Iowa. Oh, not one-half of it.

Mr. BLANTON. The gentleman says that it can not absorb one-half of that, and that the purpose of this amendment which the gentleman says he introduced and which we recognize as the same as our friend from New York [Mr. MILLS] introduced——

Mr. GREEN of Iowa. I do not want the gentleman to make a speech in my time.

Mr. BLANTON. If they can not absorb half of those which exist, how are we going to reach them, when we do not make this amendment apply in any way to the income from those which already exist, but only to future issues?

Mr. GREEN of Iowa. You can not reach them or affect them, nor will this amendment materially affect the price of the securities which they now own.

Mr. BLANTON. But the gentleman can make his amendment apply to existing tax-exempt securities.

Mr. GREEN of Iowa. I refuse to yield further to the gentleman.

Mr. SINNOTT. Mr. Chairman, will the gentleman yield?

Mr. GREEN of Iowa. Yes.

Mr. SINNOTT. Did the committee give any consideration to securities already issued, as to whether or not they could be reached?

Mr. GREEN of Iowa. They can not be reached under the proposed amendment, and it was not the intention to do so. Does the gentleman from Texas [Mr. BLANTON] propose now that this great Government, after having given its word and pledge that it would not tax these securities it has already issued, should now pass an amendment to the Constitution saying that it will tax them?

Mr. BLANTON. Yes; I am in favor of reaching them.

Mr. GREEN of Iowa. Oh, the gentleman values the word of this Nation more lightly than I do; I have more respect for it. [Applause.]

Mr. BLANTON. Where does the Constitution or the law say it will not reach them when purposely acquired in such large holdings as to allow owners to evade payment of all taxes?

Mr. GREEN of Iowa. It is not the Constitution; it is the word of the United States expressed in the law that authorized its bonds to be sold. I will not stultify myself by agreeing to any such proposition as that, for I would think I was stultifying the Nation as well if it were carried through.

Mr. FAIRCHILD. Will the gentleman yield for a question?

Mr. GREEN of Iowa. I will.

Mr. FAIRCHILD. Reference was made a moment ago by the gentleman as to the purchase of Texas bonds by Mr. Rockefeller.

Mr. GREEN of Iowa. No; I did not claim that Mr. Rockefeller bought Texas bonds. I used it as an illustration. I do

not know that Mr. Rockefeller had any Texas bonds. I think the bonds held were largely those of the State of New York, also exempt from State taxes, where he resided.

Mr. FAIRCHILD. The question I want to ask is this, admitting that he did, and I understand the gentleman to say so——

Mr. GREEN of Iowa. No; I do not think he had any.

Mr. FAIRCHILD. Does the gentleman think that Mr. Rockefeller, or any of those who have invested in tax-exempt bonds, were in favor of those bonds because they were tax exempt?

Mr. GREEN of Iowa. Only partially so; but the one reason Mr. Rockefeller bought these bonds was because of their undoubted security. That has more to do with the price of those bonds than the tax-exempt feature. State and municipal bonds always commanded an extra price in times when there was no income tax.

Mr. FAIRCHILD. And to the extent they did invest in them because of their tax-exempt qualities, does not the gentleman think that it had something to do with the rate of interest paid by the municipalities?

Mr. GREEN of Iowa. Oh, yes; it would have something to do with it. I am not arguing it would not have anything to do with it, because between tax-exempt bonds and those not exempt on the other, each being approximately equal, there is no question but what Mr. Rockefeller would take the tax exempt. But the people of Texas have got to sell the bonds in the North where they are subject to State taxation, and they are fooling themselves when they think they are getting a great benefit out of it when they are not, and the farmers are not——

Mr. FAIRCHILD. That necessarily would affect the rate of interest the State and the municipalities would have to pay on their bonds, would it not?

Mr. GREEN of Iowa. To some extent, but where does it transfer it? Where does it go. It takes the burden off the shoulders of those who are best able to bear it and puts it in the end on the wage earner and the laborer. Is that what gentlemen want to do here?

Mr. FAIRCHILD. It takes the burden off of those who pay large income taxes and puts it on the poor, the landowner, the home owner. [Applause.]

Mr. GREEN of Iowa. As the law now stands, it does, but I must decline to yield further. Does anyone say the present system does not take the burden off the man of great wealth when it exempts him from taxes? Of course it does.

Mr. LANKFORD. Will the gentleman yield?

Mr. GREEN of Iowa. I must decline to yield now. I hope the gentleman will pardon me. I do not intend any discourtesy, but I desire to finish my remarks in an orderly way.

Mr. BLANTON. We would rather have information from the Chairman.

Mr. GREEN of Iowa. I am trying to give it to those who are willing to receive it. [Laughter.] Now let me say another word about what the effect of this amendment would be upon the farmer. Not over one-tenth of the farm loans are made by the Federal organizations; nine-tenths of them are made by organizations and individuals whose incomes are subject to taxation. You shift the tax from one to the other and what has been the effect? The effect has been that large estates have stopped making loans on land. I know of one of the largest in my State that at one time put every dollar into farm loans that they had to invest and have withdrawn all of their money from loans of that character, and now put it in tax-exempt securities. The great estates everywhere are doing that. Naturally they would do so when they have to pay so little more for tax-exempt bonds when they can buy these securities at prices which the small investor fixes, and get the benefit of reducing their income taxes in this manner. The inevitable effect of this is to take away this money that was before so abundant and so cheap, and now as the result of it in my State we find that farm loans made by the Federal organizations are not made at as low a rate as they were formerly when there were no Federal organizations which were able to buy tax-exempt bonds and obtain the money to loan to the farmers.

Mr. Chairman, I have only mentioned a few of the evils that pertain to this situation. The system of tax-exempt bonds raises the rate of interest to everyone. It destroys our progressive income tax. It causes the Government an immense loss in revenue. It encourages extravagance in municipalities.

Mr. BYRNES of South Carolina. Will the gentleman yield for a question?

Mr. GREEN of Iowa. Yes.

Mr. BYRNES of South Carolina. Did the gentleman say the rates of interest now charged by the Federal land banks in the gentleman's State of Iowa was higher than the rate formerly charged by private money-lending companies?

Mr. GREEN of Iowa. Yes; the gentleman understands I am speaking of a time before the war. There is no question about it.

Mr. BYRNES of South Carolina. Will the gentleman tell us the rate now being charged in the State of Iowa by the land banks?

Mr. GREEN of Iowa. A little over 5 per cent it figures on a long-time amortized loan.

Mr. BYRNES of South Carolina. Does the gentleman mean to say before the war you were borrowing upon farm lands in the State of Iowa at less than 5 per cent?

Mr. GREEN of Iowa. No; but they were made at 5 per cent without commission. Some exceptional loans were made at a lower rate than 5 per cent. I hope the gentleman will pardon me; I want to finish.

I am at a loss to understand how gentlemen can on the one hand say they want to keep at the very highest point, as I understand gentlemen do on the other side, the surtaxes which are levied against high incomes and at the same time open wide the door of escape, so that the man with the great income will pay no taxes whatever. I can not understand how gentlemen can expect that the laborer and the wage earner to see, as they sometimes do, a resident of their community with an enormous income paying not a cent of tax to the State or the Nation without a feeling of the deepest resentment.

The man of moderate means, the wage earner, and the laborer knows that he must make up the taxes that owners of tax-exempt securities avoid. Is it fair? Is it just? We know it is not, and nothing can produce social discontent faster, nothing can breed Bolshevism and anarchism faster than that kind of condition under which a man rolling in wealth, more than he can possibly use anyway, is permitted to pile up his wealth without contributing anything to the support of the Government that protects him.

Mr. OLIVER of Alabama. Mr. Chairman, will the gentleman yield for a moment, for just one short question?

Mr. GREEN of Iowa. I will.

Mr. OLIVER of Alabama. If the evil is as great as you state with reference to the issuance of tax-exempt securities, what good reason can be assigned for the large issue of tax-exempt securities which the present Treasurer has issued in the last two or three years?

Mr. GREEN of Iowa. What good reason?

Mr. OLIVER of Alabama. Yes; what good reason can be assigned for freeing those securities, since he came in, when he did not have to issue tax-exempt security?

Mr. GREEN of Iowa. The same reason that the farmer now gives for wanting his bond exempt from taxation, and that is because the local communities are now issuing their great amounts of securities that are exempt from taxation, and the Federal securities must compete with them. It is a question requiring no answer.

Mr. MILLS. Mr. Chairman, will the gentleman yield?

Mr. GREEN of Iowa. Yes.

Mr. MILLS. I am not aware of any securities of the United States that are tax exempt except as to the normal tax. I have not heard of any short-time securities issued in the last three years that are tax exempt.

Mr. OLIVER of Alabama. What about the renewal of the certificates running from one to two or three years?

Mr. MILLS. They are not tax exempt.

Mr. OLIVER of Alabama. If those securities are held by a corporation, is there any surtax upon those securities?

Mr. GREEN of Iowa. No; and the proposed amendment would not affect the situation. I must decline to yield further.

The CHAIRMAN. The gentleman declines to yield.

Mr. GREEN of Iowa. Already I have been compelled to omit things to which I wished to make extended reference.

The gentleman from Tennessee [Mr. GARRETT], for whom I have the highest regard and respect, pictured before you the Republic of the future which presented his ideal. I, too, would like to picture the Republic of the future—one in which all men were on an equality, so far as taxation was concerned; one in which no one could say that the greater the wealth of a man the less in taxes he should pay; one in which such conditions would not obtain as obtain now, when it is just as certain as that the sun continues to rise and the tide continues to move that if you let this condition remain unchecked the wealth of this country will gradually be concentrated in a few hands, exempt from taxation, and the weak, the unfortunate, together with some people of moderate means, will pay all the taxes that are paid. [Applause.]

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES.

The committee informally rose; and Mr. BACHARACH having taken the chair as Speaker pro tempore, a message in writing was communicated to the House of Representatives by Mr. Latta, one of his secretaries, who also informed the House of Representatives that the President had approved and signed bills and joint resolutions of the following titles:

On December 18, 1923:

H. J. Res. 70. Joint resolution authorizing payment of the salaries of the officers and employees of Congress for December, 1923, on the 20th of that month.

On January 25, 1924:

H. J. Res. 82. Joint resolution extending the time during which certain domestic animals which have crossed the boundary line into foreign countries may be returned free of duty; and

H. R. 185. An act providing for a per capita payment of $100 to each enrolled member of the Chippewa Tribe of Minnesota from the funds standing to their credit in the Treasury of the United States.

On January 31, 1924:

H. J. Res. 151. Joint resolution extending the time for the final report of the joint congressional committee created by the agricultural credits act of 1923.

On February 1, 1924:

H. R. 5196. An act granting the consent of Congress to the construction of a bridge across the Rio Grande.

On February 2, 1924:

H. R. 3679. An act to authorize the building of a bridge across the Peedee River in South Carolina;

H. R. 3680. An act authorizing the building of a bridge across Kingston Lake, at Conway, S. C.; and

H. R. 3770. An act for the examination and survey of Dog River, Ala., from the Louisville & Nashville Railroad bridge to the mouth of said river, including a connection with the Mobile Bay Ship Channel.

TAX-EXEMPT SECURITIES.

The committee again resumed its session.

The CHAIRMAN. The gentleman from Arkansas [Mr. OLDFIELD] is recognized.

Mr. OLDFIELD. Mr. Chairman, I yield 10 minutes to the gentleman from West Virginia [Mr. ROSENBLOOM].

The CHAIRMAN. The gentleman from West Virginia is recognized for 10 minutes.

Mr. ROSENBLOOM. Mr. Chairman, never before has this Congress considered a proposal for an amendment to the Constitution with so little accurate information before it as this amendment. We do not know what proportion of these tax-exempt bonds is held by these small holders of bonds that are untaxable, nor the proportion of those held by large incomes that are taxable.

Fortunately for the proponents of the resolution now pending before the House, William Rockefeller died and left an estate. I have yet to hear the champions of this measure take the floor or issue a statement in the press without holding up the case of Mr. Rockefeller as an example of hoarding money in tax-exempt securities. Later on I intend to discuss the situation with reference to the Rockefeller estate.

Members of Congress owe, as their primary duty to their constituents, a conscientious and sincere consideration of legislative proposals presented before them. Without doubt, any Member, or in fact, several Members may be wrong in their conclusions and views with regard to any specific bill, no matter how conscientious or honest their attitude and desire. I have always maintained, however, there can never be enough Members honestly wrong on any particular matter of legislation to do any recognizable injury. There is a possibility of grave injury, however, when legislators do not thoroughly consider each proposal, and accept and acclaim the view of others, which, for the moment, at least, seems to be most popular. It is easily possible for enough Members to see the popular view, even though it be in error, in the same light, at the same time, and after accepting that view to enact legislation which may be susceptible of harm, injury, and damage. Therefore it would be better, and much to the advantage of the country, if we, as legislators, proclaim our individual views, and vote in accordance with our individual convictions honestly arrived at, even though we may be at variance with views of others, seemingly more popular.

Particularly with regard to the consideration of a constitutional amendment, I believe the Members of the House should be enlightened and thoroughly acquainted with thoughts and views from every angle of the proposition. Nor would I oppose the adoption of the constitutional amendment under consideration if I could believe there was a general knowledge and thorough understanding of the question and if I could know that the proposal had been completely and carefully considered from other than the popular angle by the Members of Congress.

The great clamor that this measure has for its sole and only purpose to prohibit the great rich, the men of enormous fortunes, from escaping their just share of taxation is the only basis that I have heard advanced—in fact, the only logical reason that has been advanced and the only excuse that has been advanced for the passage of this amendment. I beg to say it will not have that effect, nor is that the real purpose of the amendment, nor will it be the effect of the amendment.

The reason why I rise in opposition to the amendment at this time, overlooking whatever merit there may be in submitting the amendment to the States for consideration by them, is the fact that this is a peculiar amendment and will have peculiar results. By that I mean that it is different from other amendments.

I venture the prediction that the immediate result of the submission of the amendment prohibiting further issues of tax-exempt securities by this Congress will defeat the object that the advocates of the amendment hope to accomplish by its enactment. The mere submission of this amendment will precipitate a deluge of tax-exempt bonds for public improvements, which, under ordinary conditions, would have been withheld until later years. There can be no question that the ratification of the amendment will advance the interest rate on these bonds which are issued for public improvements. To secure the advantage of the lower rate of interest on these bonds, which are nearly always issued for a long term of years, energy will be devoted to hasten the issue, which might be delayed otherwise. This would preclude the investment of money in any other than tax-exempt securities for the present and immediate future, at least, if this amendment passes Congress.

In other words, communities which later contemplated the making of public improvements, the extension and erection of schools, and the building of roads would immediately rush in to put them through while they were in a position and had the authority to issue tax-exempt bonds.

A stock objection to legislation is on the ground that it is unconstitutional. This objection is often urged by those opposed to the legislation itself and whose real objections are either private or personal. There are others who object to any amendment of the Constitution. All of these objections have been raised by the gentlemen who have preceded me in opposition to this amendment. You have heard the further objection that the amendment is an invasion of State rights, and other like reasons.

The objections I will present to you are more specific, and it will be my endeavor to meet the arguments which have been presented in behalf of the amendment. The advantages claimed as a result of the enactment of this amendment can be briefly summarized as follows: First, to prohibit tax dodging; second, to release capital for investment in private enterprise.

In reply to the first argument, I do not concede that the issue of tax-exempt securities promotes tax dodging. The rate of interest from tax-exempt securities is fixed. In every instance the rate of return in interest is much lower than could be secured from a similar investment in other agencies. This difference in the rate of return compels the purchaser of this class of securities to give his money to the public, for public improvements, for lesser reward and with the understanding that he will receive no more than the stipulated rate of interest. The public is the beneficiary in this transaction. This amount of money could have been invested, and doubtless would be invested, in other securities, yielding larger returns, except for the tax-exempt provision; or the tax-exempt bonds would have to bear a sufficiently higher interest rate to compensate for the amount of the tax and to compete with other securities for a market in the absence of this tax exemption. The communities issuing the bonds must pay this higher interest rate to attract the investment. You are seeking by this amendment to tax the investor. But will you do this? The amount of tax you impose on these securities must be compensated for in the interest rate paid on the bonds; the States, counties, and municipalities who issue these bonds—your constituents—will pay the higher interest rate; consequently it will pay the tax.

Following the argument of some of the advocates of this amendment, it would seem that the money received from the sale of these securities by the localities issuing them is taken out and dumped into the ocean or disposed of in some equally ridiculous manner. The investor exchanges his money for the bonds, which is then deposited in the banks in the communities where the securities are issued and then, in turn, paid out for

labor and material; the receiver then, in turn, paying it out in rent, merchandise, for living expenses, and so forth, then back into the banks to again go through the cycle of industry. In the first instance this money is spent for public improvements, such as roads, schoolhouses, school equipment, filtration plants, and so forth. When these improvements are completed they are for public benefit and gain rather than private. The money, having been spent for these purposes, pays no cash dividend returns. It is not held in shares of stock to be gambled with and controlled by the money owners or speculated in by the public; nor does it permit the owners of the money to profit, both by ownership and ability to control the market for that particular security. The advocates of the amendment desire to have the money invested in what they term "productive enterprise"—railroads, manufacturing plants, and so forth, and argue that these privately owned enterprises are the sole beneficiaries of the country, because the money invested in them gives employment and pays wages.

Shall we ignore the benefits accruing from public development and improvement simply because such benefits, even though no less positive, can not be reduced to mathematical calculations and placed on the profit side of private ledgers?

The money invested in schools gives a daily and permanent return to industry in that it provides more intelligent and capable workmen. The advantage to the product of the school, which is more easily erected because of the ability to build and equip it with money secured at a lower rate of interest because of the tax-exempt security, can not be estimated.

The money invested in roads gives a daily return in the ability of purchasers of commodities to reach the market, and in some instances allows the manufacturer or merchant to go into the rural communities for his raw materials. It enhances the radius for his labor supply. The building of every improved roadway permits the residents of the rural sections to come into the central points to purchase and increases the number of customers for the merchant, who, in turn, buys more from the manufacturers. This improvement offers inviting prospects to manufacturers of automobile trucks, automobiles, tires, agricultural machinery, and so forth, for increased sale of their products.

The money invested in filtration plants adds its daily profit to industry in better health of the workmen and reduces the bill of the community for medical expenses necessary where a pure water supply is not always available.

The CHAIRMAN. The time of the gentleman has expired.

Mr. ROSENBLOOM. Will the gentleman from Arkansas yield me five additional minutes?

Mr. OLDFIELD. Mr. Chairman, I yield the gentleman five additional minutes.

The CHAIRMAN. The gentleman from West Virginia is recognized for five additional minutes.

Mr. ROSENBLOOM. I listened recently to the argument of the gentleman from New York wherein he stated, with reference to the Rockefeller estate, that by reason of the fact that Mr. Rockefeller was located at the money center he was in a better position to know the real value of the various industrial stocks which he owned and which he converted into bonds. Because of his environment he had better opportunity than persons 2,000 miles away to know the intricacies of the market and the probable future of industrial stocks, which he decided to sell and to invest the proceeds of these sales in tax-exempt bonds. In my opinion this emphasizes the necessity for the continuance of tax-free Government, State, county, and municipal bonds, in order to afford a safe investment for those of small means, whom the gentleman from New York states were the purchasers of these securities that Mr. Rockefeller unloaded by reason of the knowledge and particular advantage he enjoyed.

It is within my personal knowledge when the street cars were first constructed and companies were organized for their operation. At that time they were highly profitable, and, as a rule, were almost entirely owned by persons influential enough to secure the necessary franchise. They were close corporations, and the public, generally, could not purchase the stock. With the coming of good roads and automobiles the profit from operating street cars was at an end, and the public, by advertisements in the street cars and newspapers, were invited to invest. The original owners unloaded, and the public are now holding the securities of companies that are fast becoming obsolete.

I am going to make a statement which may be considered premature or along the line of prophecy, although I do not claim to be a prophet. But I believe the railroads are soon to go the way of the street cars, for the same reasons. Soon there will be nothing left for them but long hauls of heavier commodities, and it is now difficult for the gentlemen holding these securities to unload on the public, whose main object in investment is security of investment rather than great returns.

I want to say further that in my opinion the coming of the radio spells the doom of the telephone system as at present organized, so that you are now receiving with your telephone bills an invitation to join the stockholders of the telephone companies for the purpose of allowing the present owners to unload.

I may be wrong about that, but I want to say to you that I am not wrong about this: I never knew of speculation or loss in Government, State, county, or municipal bonds, but the sum total of the money lost by the public in speculation in private enterprises is beyond calculation.

In connection with the objections I am voicing at this time, I call your attention to my statement printed in the CONGRESSIONAL RECORD on December 13 reciting my views as to the legislation under consideration.

My purpose in presenting them at that time was to permit those advocating the passage of this legislation an opportunity of convincing me wherein my thought on this matter was erroneous, as I never have nor will insist that my views are absolutely correct, and am always willing to change my opinion if convinced my position is wrong. Although my statement has been before Congress and the Ways and Means Committee for several months, the objections set forth have not been answered up to this time.

These questions should be particularly considered by Representatives from the States that need a large amount of public improvement. It is well and good for those of you from the States that have been settled for a greater period of time, whose public improvements have been completed with money secured by the issuance of tax-exempt securities, and a consequent low rate of interest, to now advocate a measure that will increase the taxable values on your books after you have had the advantage of building your improvements with tax-exempt bonds, but I do not see how any Representative in this body representing districts whose public improvement program is but fairly started can lend their support to a measure which will bring about the result outlined.

To present the matter more completely, the statement which I made on December 13 is hereto appended:

Mr. Speaker, one of the first legislative proposals to come before the Sixty-eighth Congress will be the adoption of the amendment to prohibit the further issue of tax-exempt securities.

When this amendment was being considered by the Sixty-seventh Congress, in view of the apparent majority sentiment for its adoption, I believed that it would be well to present one phase of the matter which had not been presented theretofore.

Since the amendment will again be before the House I wish to restate my views for the benefit of the gentlemen who were not present in the last Congress, and also that this particular phase of the amendment may not be lost sight of by the Members generally.

Mr. Speaker, as the result of a campaign of misleading propaganda, it is my opinion that the proposed amendment to the Constitution will pass the House. Although many well-intentioned people, and, I dare say, Members of the House of Representatives, have been beguiled into favoring the bill on the widely advertised theory that it has for its object and sole purpose preventing the investment of large incomes in tax-exempt securities, by means of which such incomes escaped an equitable share of taxation.

If it were possible to prevent money accumulations from escaping their fair share of taxation by the ratification of the amendment under consideration, I pledge that no one would be more industrious or conscientious in his effort toward this accomplishment than myself.

The prevalent opinion that the adoption of this amendment will reach securities already issued is unjustified and untrue. Such securities will continue to be tax exempt. There is no legal way in which they can be reached. The contemplated amendment only provides for such securities as shall be issued after its ratification.

"A man is known by the company he keeps." Let me digress far enough to add that a legislative proposal can be most certainly identified and characterized by its advocates.

Why is it that the same gentlemen who some years ago were exhausting their energy to secure reduction of income taxes on incomes in excess of $67,000 a year, at the expense of incomes under $67,000 a year, are now so devoted to their "professed" interest in the people generally that they use the same majority of people whom they proposed to tax more heavily as the cat's paw of their argument that the proposed amendment should be adopted. Truly "a leopard can not change his spots"—at least not so easily and quickly.

Is it consistent to believe that those same gentlemen who a year ago argued for a reduction of tax on enormous incomes should now be so eagerly championing an amendment whose sole intent and object

is to collect a greater amout of taxes from those same inflated incomes? "Verily, do I hear the voice of Jacob, but I feel the hand of Esau."

Where did the money come from that has previously been invested in tax-exempt securities? These incomes are received as dividends from industrial stocks, from oil stocks, automobile stocks—speculation. They are most certainly not the result of conservative bond investment, yielding a far more moderate return of interest on the investment.

It is therefore patent that all securities—including the tax-exempt security under discussion—was infinitely less profitable and attractive than the profits to be derived from further speculation. Why, then, is this money invested in these tax-exempt securities? I am satisfied that there is no desire on the part of possessors of large incomes to invest them in tax-exempt securities unless forced to do so by high rates of income tax. Those securities constitute an entirely safe investment, devoid of the speculative dangers attendant upon speculative stock investment. Allowing for the safety in the security investment, the factor that determines is the rate of return.

When the rate of return from the bond investment, plus the advantage from tax exemption, approximates the return from speculative stocks, minus the necessary deduction for payment of taxes, accumulated wealth immediately absorbs the issues of tax-exempt securities, not neccessarily because they are tax exempt, but because of the advantage of increased safety in the knowledge that the net return from such investment will be substantially the same as would accrue from speculative investment after allowing for deductions for payment of taxes as result of such investment.

These same gentlemen who are now asking the adoption of this amendment, when the income tax bill was under consideration by the House, gave every assurance that if the excess-profits tax and other surtaxes were eliminated or reduced it would eliminate the practice of accumulated wealth seeking refuge in tax-exempt securities. Accepting their assurances, this Congress gave them the relief they sought. Why do they now come before you and say it is necessary to stop the issuance of tax-exempt securities in order to accomplish the result they predicted in the first instance? Because, gentlemen, the continued attractiveness of these tax-exempt securities, wherein a goodly portion of their money sought refuge and where it now remains, is no longer to their liking. Immediately a tax is added to further issues of such securities their holdings will automatically increase in value to the extent of the tax.

The economic condition of the country's business has reached a point where speculative industrial investment can not compete with the security and assured return to be had from investment in such securities.

As previously stated, these wealthy gentlemen accumulated their wealth almost entirely as a result of the speculative investment which they largely control and manipulate. But, if people will not invest in industrials, there is nothing for them either to control, or manipulate, consequently there is no profit, and again, consequently, they seek to make the issue of tax-exempt security less attractive, so that investment will again be made through their favored mediums.

I will unceasingly regret my mistake in opposing the adoption of this amendment if the purpose really be to tax colossal wealth its just, fair, and equitable proportion by denying to it the refuge of the tax-exempt security. The slogan, "Stop the rich from evading taxes" is very popular. Is that the real purpose of the amendment? Let us stop for a moment and consider.

First. If it be the purpose of those who advocate this measure to discontinue such securities so that the money will be invested in industrial securities, why do they not say so?

Second. If it be the purpose to so handicap State and municipal securities that, with less attractiveness and advantages, the interest rates can be dictated by the financiers of Wall Street in order to make them salable, why do they not say so?

Third. If it be the purpose to so detract from these securities that they will no longer find a ready market, and the issues must be marketed by these same gentlemen who now seek to tax them and make them less attractive to the purchaser, why do they not say so?

Fourth. If it is the purpose to prevent the Federal Government, the various States, and the municipalities from engaging in what has been regarded as the sanctum sanctorum of private business—the building of elevators, furnishing heat, light, and power, transportation, and other essentials of urban civilization—why do they not say so?

Fifth. If it be the purpose of those advocating this measure to compel the various States issuing bonds for road-building purposes to so embarrass the sale of those bonds by removing the tax-exempt feature in order to retard the road-building program, and by so doing minimize the competition that they are developing to the railroads of our country, why do they not say so?

Sixth. If it be the purpose to remove the guaranty of an interest rate not in excess of 6 per cent for farm-loan purposes, to destroy the farm-loan banks and compel farmers to go into the open market for money at market rate of interest, why do they not say so?

My own State, having authorized $50,000,000 of such bonds to be sold during the course of the next few years, I can not see my way clear to lend my vote to raise the rate of interest which we will have to pay or restrict the market that there is for those securities under present conditions.

But, gentlemen, I do charge that such things that I have enumerated are susceptible of accomplishment, and are easily possible, with the proposed amendment in force.

I am quite certain, however, that if either or all of the above propositions had been presented to you as arguments for the adoption of this amendment it would have received but scanty consideration. It is indeed cleverly masked. If I can analyze the sentiment of the membership of this House, there is an overwhelming desire to place taxation on the sources best able to bear the tax.

I can not approve of a policy which will deliver into the hands of the capitalists controlling the money markets the power to dictate the rates of interest at which my constituents can secure money for permanent physical improvements of their localities.

If the people of Wheeling, or Fairmont, or Grafton, in the State of West Virginia, wish to build a road or a school and thus add to the capital of their respective community, and the proposal is submitted to a vote of those concerned and receives an indorsement of the necessary two-thirds majority, indicating their desire for and willingness to pay for the new roadway or school, I believe they should be permitted to secure the necessary money as the result of a bond issue under the most favorable conditions. Such permanent physical improvement—the only enterprise for which they are entitled to issue municipal bonds, by sanction of two-thirds majority of the people concerned—are the assets and capital not only to the community but to the Nation.

The bonds issued will be paid. They have the best obtainable security—the pledge of two-thirds of the residents and property owners of a given locality. The Nation is benefited to the extent of the tax which purely industrial speculations must bear. Why should additional taxes be heaped not upon the bonds but upon the people? With a tax-exempt security they could find a ready market at 4 or 4½ per cent. By eliminating the tax-exempt provision they would have to return a sufficiently higher income to recompense for the amount of tax they bear in order to meet competition and to find a market. At best, the market would be difficult to find. At least, the interest rate which the people would be compelled to pay would immediately advance from 4½ to 6½ or 7 per cent.

In the absence of a ready market it might be necessary to submit the entire issue to these gentlemen who are asking you to do away with tax-exempt securities.

This would add an additional and expensive service to be extracted from the amount of the issue calculated to build the contemplated improvement. This creates additional tax for the people of those communities. Who is benefited? In this instance there is a minimum cost at which the road can be built—the lowest cost. But you have proceeded to add additional costs with amazing rapidity, so that there will be a sizable difference between the lowest cost and the cost at which the road will actually be completed. This has occurred in the financial end of the transaction. The gentlemen who wish tax-exempt securities eliminated control that end.

The reciprocal provision of this amendment permitting the States to tax Federal bonds to be issued in the future is buncombe, pure and simple. Nothing is more remote than the issuance of further bonds by the United States Government.

While I am unalterably opposed to prohibiting the issue of tax-exempt securities, I would energetically support an equitable law prohibiting any individual, firm, partnership, corporation, or combination from holding more than a stated amount of such securities. This would insure a wider distribution of such issues and prevent hoarding money in such investment solely with the object of evading taxation.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. ROSENBLOOM. Mr. Chairman, I ask unanimous consent to revise and extend my remarks in the RECORD.

The CHAIRMAN. The gentleman from West Virginia asks unanimous consent to revise and extend his remarks in the RECORD. Is there objection?

There was no objection.

Mr. BLANTON. Mr. Chairman, I make the same request.

The CHAIRMAN. The gentleman from Texas makes the same request. Is there objection?

There was no objection.

Mr. OLDFIELD. Mr. Chairman, I yield myself 20 minutes. [Applause.]

Mr. Chairman and gentlemen of the committee, I am very, very much opposed to this constitutional amendment. When we first began the consideration of this amendment more than a year ago I was somewhat in doubt, because when these gentlemen came before the committee and we saw these magazine

articles and newspaper articles as to how the rich were avoiding the payment of taxes, I admit they had me rather bamboozled for a while. But the more I have studied the question, the more I have read about the question, and the more I have discovered from what source the propaganda comes, there is not the slightest doubt in my mind, gentlemen, but that the rich and the very rich are the people who are behind this most outrageous proposition.

In the first place, gentlemen, they say that tax-exempt securities issued by the Federal Government, municipalities, and so on take money out of productive industry. Gentlemen, it is not true. There is not one word of truth or one scintilla of truth in that proposition. If the people of my community and of your community spend $100,000 for a schoolhouse or $1,000,000 for good roads, the idea of any man saying that is nonproductive industry. Is not the education of the youth of the country productive industry? My friends, is not good road building productive industry? My friends, are not those things just as productive as a steel mill in Pittsburgh or a woolen mill in Massachusetts? What could be more productive than the education of the youth of the country? What could be more productive than building good roads upon which the farmers may be able to take their products to the towns, to the markets, if you please; and yet under this amendment, if it be adopted—it will not be adopted; I serve notice on you now.

You will not even pass it through this House and you will never have an opportunity again to even vote on this proposition. Every schoolhouse that could be built for $100,000, in the future, if you adopt this amendment and it becomes a part of the Constitution of the United States, will cost $120,000 because this will increase the interest rate at least 1 per cent per year, and every man who has studied this question, from Secretary Mellon down, knows it, if you please. Every million dollars' worth of good roads you build will cost, in 20 years, 1 per cent extra every year. They will cost you $1,200,000. Who pays that, gentlemen? Who pays that interest tax, if you please? The interest is not paid in accordance with ability to pay. It is paid in accordance with the necessity of the people who have to borrow the money, and when you talk about the people of this country having to borrow money to carry on these public improvements, they must do it, gentlemen. The population is increasing in this country, as you all know, and the swamp lands of America must be put to the plow in order to feed the people of the country. The arid lands of this country must be brought under cultivation in order to feed and clothe the people of America. Are you going to raise the interest rate on these people, at least 1 per cent per year, and in many instances more than 1 per cent or as high as 2 per cent, on an irrigation project? Are you going to raise the interest rate under the farm loan act? If you want to borrow money under the farm loan act to-day, you can not pay more than 6 per cent, and if they sell their bonds, as they sold $60,000,000 of them two weeks ago, for 4¾ per cent, that money must be loaned to the farmers for 5¾ per cent.

Who are the people, gentlemen, who are behind this proposition? Let me just read you the names of the men who appeared before the committee on this matter. Mr. Edward D. Chassell, Mr. Philip H. Gadsden, Mr. Leffingwell, who is a former Assistant Secretary of the Treasury under the Wilson administration and to-day one of the partners of J. P. Morgan & Co., appeared. Mr. Seligman appeared and Mr. Secretary Mellon appeared. These are the gentlemen who made the arguments. Who is Mr. Edward D. Chassell? Mr. Chassell is secretary of the Farm Mortgage Bankers' Association, the Shylocks of agriculture in this country.

I remember before the farm loan act was placed upon the statute books that the people of the South, including the people of Arkansas, were paying all the way from 7 to 13 and 14 per cent for money for farm purposes. Not only that, but they would add from 1 per cent to 5 per cent in commissions and fees of all sorts. Every man from the South and the West knows that I am telling the truth. Every man from the South and the West knows that the farmers could not borrow money on their farms for less than 7 per cent, and often the rate would run as high as 12 per cent.

Mr. GREEN of Iowa. Will the gentleman yield?

Mr. OLDFIELD. I yield to the gentleman.

Mr. GREEN of Iowa. The gentleman does not mean to say that representatives of various farm organizations did not also appear in support of the amendment?

Mr. OLDFIELD. It would not make the slightest difference on the face of the earth to me if every farmer in America should come in and ask me to support this proposition. I would not do it, because I know they are not right about it, gentlemen. Any man who supports this proposition thinking it is in the interest of the farmers is wrong; absolutely wrong. But the farmers did not come before us and support this measure whole-heartedly. Every one of them want the farm loan bonds tax exempt.

Mr. ABERNETHY. Tell us who the others are.

Mr. OLDFIELD. This man Edward D. Chassell—and that is where the propaganda comes from, gentlemen—is mentioned in this article in the United States Investor of October 14, written by a man named F. C. Waples, secretary of the Iowa Farm Mortgage Association. Here is what he says:

> If you will permit the speaker to express at this point his own personal views, without reference to the committee who have had this matter in charge, and to give you his own ideas, I would like to suggest that this association has been carrying on through its secretary, Mr. Chassell, a much more subtle method of advertising and a much more effective method of advertising than can ever be obtained by large paid ads in the newspapers; because paid advertising goes only so far, but the matter of suggestion, coming from what may seem a more or less unbiased source, is much more effective.

Carrying on subtle propaganda, he admits himself, in order to have the Congress of the United States submit this proposition. Of course, the farm-mortgage bankers are for it. They tried to prevent the enactment of the farm loan act, and you all know it. Seven years ago the Democratic administration placed upon the statute books the farm loan act. It had not been in operation but a few years until the farm-mortgage bankers of the country brought suit in the Federal court and tied up the farm loan act for two years until the Supreme Court passed upon it. While they had it tied up in the Supreme Court they got out this propaganda for this proposition, wanting to destroy the act. That is all there is to this part of it. They are trying to destroy it, but they are not going to get away with it.

Now, what else is there involved? Here is another man, Philip H. Gadsden, vice president of the United Gas & Improvement Co., who stated before the committee that he appeared, first, for the American Gas Association; second, the American Electric Railway Association; and third, the National Electric Light Association. In other words, the Gas Trust and the Light Trust do not want your people or my people to establish a city-owned electric-light plant, water plant, or sewerage system. They want to furnish those facilities themselves. They want to build them in our towns and want to hold up the communities in doing it. My town, which is a town of about 5,000 people, for years has owned the water and light plants.

I think if there is any community in the country that wants to own a light plant, a water plant, or a sewerage plant it ought to be given the privilege of owning it, and it ought to have its bonds tax exempt. Why? Because they must be paid by the property owners, and if you increase the interest rate $25,000 or $50,000, it comes out of the pockets of every property owner in the community. It does not fall upon them in accordance with their ability to pay, but in accordance with the necessity of acquiring the improvement. There are more than a million seats short in school buildings in this country, and yet you would tax the bonds with which you build the schoolhouses.

Now, let us see what this means from another standpoint. How many tax-exempt securities are there in the country? Twelve billion three hundred million—and nine and one-half billion are State and municipal, drainage districts, irrigation projects, school buildings, waterworks, light plants, sewerage systems, fire protection, and, my friends, they are not going to be paid the minute this resolution is adopted, if it should be adopted.

Now, what effect will it have? It will have the effect of increasing the interest on nine and a half billion dollars.

Mr. HUDSPETH. Will the gentleman yield?

Mr. OLDFIELD. I will yield to the gentleman from Texas.

Mr. HUDSPETH. In the Federal land bank and the joint-stock land banks there have been $90,000,000 loaned to the farmers and $300,000,000 to the ranchmen. At the time that act went into operation they were paying 7 to 12 per cent. Now they are paying 5½ per cent. I want to ask the gentleman, if we make these bonds taxable, does he believe that they will be as salable as they are at the present time when the farmer and the ranchman can get the low rates of interest and get the money on 33 years' time?

Mr. OLDFIELD. No. Let me refer you to the testimony of George W. Norris, governor of the Federal Reserve Bank of Philadelphia and formerly a member of the Farm Loan Board. He testified about a week ago before a Senate committee.

Senator FLETCHER asked him—

> Mr. Norris, if the Federal land bank securities were not exempt, what greater rate of interest would they have to bear when sold in order to sell them, in your judgment?

Mr. Norris said:

I am confident that they could not be sold below 5½ per cent, and I think the rate would be 6 per cent.

Now, there is not a better authority in this country. If the bonds were sold at 6 per cent the farmers would have to pay 7 per cent on their loans. Now then, there is $95,000,000 every year in interest rates because it will increase interest rates, and some say as much as 2 per cent, but it will at least increase them 1 per cent, and there is $95,000,000 in that. What else? There are $8,000,000,000 in farm mortgages in America; $1,300,000,000 under the farm loan system, which had been in operation but a short time when it was held up by these Shylocks, the Farm Mortgage Bankers' Association.

Eight billion dollars in loans that have got to be paid some day, and they become due on the average of about five years. The farm loan act had an effect on the insurance companies; they had to give long-time loans in competition, and if you increase the interest on the farm loan bonds they will increase the interest rate also. There is nothing truer than that. Eight billion dollars of farm mortgages that will cost the farmers $80,000,000 annually in increased interest rates. Eighty million dollars and $95,000,000 make $175,000,000 annually.

Arkansas has $90,000,000 indebtedness now, and it will increase the interest $900,000 a year on Arkansas and we would not get a dollar of taxation out of this proposition. How much will go into the United States Treasury? How much will you get out of it on this proposition? Mr. Mellon says you will get $200,000,000 into the Federal Treasury, but there is not one word of truth in it, and he has not tried to prove it. Why, gentlemen, it is the silliest argument for these gentlemen to make out that what they want is to get after the Rockefellers. Great God, who ever heard of a Republican organization wanting to hurt a Rockefeller? [Laughter.] Never! Here is the way they try to reach a Rockefeller—they slap him on the wrist and say, "Now, you be good; be good." But when they get the ordinary citizen they get a sledge hammer or a maul, hit him over the head, and say, "Now, you be good." That is the way they do with the ordinary fellow. [Laughter.]

Gentlemen, there were $105,000,000 of income, and they were scattered along in all the brackets of the income-tax law. From $5,000 to $20,000 there is $32,000,000 income, and there is not as much in the big income brackets as in the little income brackets. They talk about William G. Rockefeller having $50,000,000 of tax-exempt securities. Well, he was an old man and did not want to worry about investments. He was conservative. I can tell them how to fix these fellows who have tax-exempt securities—they can get them by an inheritance tax, but they have not tried that.

Take it from me they are not going to try to get them in that way. They do not want to get them. If they did, they would have gotten them long ago.

Mr. GARRETT of Tennessee. Mr. Chairman, will the gentleman yield?

Mr. OLDFIELD. Yes.

Mr. GARRETT of Tennessee. Of course, the State of New York had it within its power to tax the income of the Rockefeller-owned bonds?

Mr. OLDFIELD. Yes.

Mr. GARRETT of Tennessee. And probably exercised that power?

Mr. OLDFIELD. Yes.

Mr. GARRETT of Tennessee. And when they speak of tax exemption of the Rockefeller bonds, they mean exemption from Federal taxation?

Mr. OLDFIELD. Yes.

Mr. MILLS. Mr. Chairman, will the gentleman yield?

Mr. OLDFIELD. Oh, the gentleman is going to have some time himself and I do not want this taken out of my time.

Mr. MILLS. Very well.

Mr. OLDFIELD. Let me tell you how insincere they are when they talk about this Rockefeller estate. Right here in the report of the Secretary of the Treasury, page 383, you will find the income in these individual brackets, and the little fellow you will find owns more of these bonds than the big fellow. Do you know why that is true? They are not speculatively inclined. In the particular case of Rockefeller, he was a man over 80 years of age. He wanted some investments that would not cause him any worry at all, and therefore he bought the best investment that he could on the market. He had made $100,000,000 and he was getting ready to die. He did not want to be worried during war time with speculative investments.

Mr. MILLS. Mr. Chairman, will the gentleman yield?

Mr. OLDFIELD. Yes.

Mr. MILLS. Does the gentleman think that Mr. Rockefeller was worrying much about his investments in Standard Oil stock?

Mr. OLDFIELD. No; but when you pass this resolution you will increase the value of the $55,000,000 of his tax-exempt securities by at least $7,000,000. Here is what Secretary Mellon did: He picked out 21 of these fellows and he said that the tax exempts in relation to all of their securities amounted to 28 per cent. Oh, you can pick out estates and make figures show anything; but, as a matter of fact, take all of the estates and in the 12,203 in 1920, the last figures available, the ratio of tax-exempt securities to the entire estates was only 3.59 per cent. There is $105,000,000 of personal income on tax-exempt securities. I want to tell you about what you are going to get out of this for the Federal Treasury. One hundred and five million dollars is scattered in all of the brackets, running from $5,000 to $10,000,000. I have figured it out, and you will get from fifteen to twenty million dollars from the personal incomes if you tax these tax-exempt securities upon that basis. What are the other incomes? The corporations' income from tax-exempt securities in 1920 amounted to $219,000,000, and if there were any more favorable figures these fellows would have obtained them, because they have a way of getting information. They say that you can not make the rich pay the taxes. No; you can not make them pay at all unless you do away with these tax-exempt securities, as they say, and add at least 1 per cent of interest onto all of the people in the way of interest rates. I do not want to be radical, but, my God, gentlemen, the time has come when the ordinary citizen has not a chance on earth. I have also come to this conclusion, that the rich have less sense about everything in the world except money making than anybody else in the country, and I will tell you why I say that.

I am sincere about that. I think they have less sense than anybody in this country or any other country except about money making. There was never a more conservative people in the world than the British people, and there were no greater statesmen on earth in the last thousand years than British statesmen. Everybody knows that. Yet those British high income-tax payers have raised so much sand in Briton that they have now a labor government over there, and what else? They have staring them in the face not only high taxes but a capital levy, just because those men did not have sense enough to go on and pay the war debt in accordance with their ability to pay.

Mr. WEFALD. Mr. Chairman, will the gentleman yield?

Mr. OLDFIELD. Yes.

Mr. WEFALD. Does not the gentleman think that we are drifting toward a situation here where we might have to do the same thing?

Mr. OLDFIELD. There is no doubt in the world about that, if the rich keep on reducing the surtaxes and repealing the excess-profits taxes. They repealed excess-profits taxes over my protest in the last Congress. They claimed then that the tax was being passed on and that when the excess-profits tax was repealed we would be able to buy things cheaper. Things have gone up, and these corporations and business men have pocketed the excess-profits tax and have taken from the Treasury $450,000,000 a year which should have gone toward paying these immense war debts.

Mr. LONGWORTH. Mr. Chairman, will the gentleman yield?

Mr. OLDFIELD. Yes.

Mr. LONGWORTH. Is it not true that three different Democratic Secretaries of the Treasury have recommended the repeal of the excess-profits tax?

Mr. OLDFIELD. Oh, I do not care a continental how many Secretaries of the Treasury have recommended or to what party they belong. It does not make any difference to me. I know what is right. I think, and I know I know what is right from my point of view. It makes no difference to me whether an ex-Secretary or a present Secretary or a future Secretary of the Treasury says this or that. You will get from fifteen to twenty million dollars into the Treasury from this personal income tax if we tax the exempt securities. There are $219,000,000 that the corporations get, and according to your outrageous, damnable corporation tax which you passed in the last Congress when you repealed the excess-profits tax and made a flat rate of 12½ per cent on the poor corporations, just as you did on the rich corporations, you will get on the $219,000,000 at that rate only $27,000,000 into the Treasury per year. You will never get more than from forty to forty-five million dol-

lars a year on this proposition, and you will tax the farmers and the people generally in increased interest rates to the tune of $175,000,000 a year. That is the situation.

Mr. STEVENSON. Mr. Chairman, will the gentleman yield?

Mr. OLDFIELD. Yes.

Mr. STEVENSON. That is supposing that they immediately put into effect an income tax on all of the securities now outstanding, but before they can get any tax at all, a lot of new securities must have been issued which they can tax.

Mr. OLDFIELD. Who is going to get the benefit of this amendment? I will tell you—if there is any benefit. Only the income-tax payers; that is all. That is all—nobody else—less than 6 per cent of the people pay income taxes. Only 130,000 farmers last year paid income taxes. They will get no benefit——

Mr. WEFALD. There will not be any next year.

Mr. OLDFIELD. No; they will not get any next year or another year. Take Arkansas, for example. I know something about Arkansas. Take the State of Arkansas. Every bond we sell for building roads, draining swamps and overflowed lands, we sell as 5 per cent tax-exemption bonds. Where do those bonds go? Usually to Wall Street. I am not saying that in disrespect to Wall Street; they have got the money up there. They buy these bonds, if anybody takes them. They will be taxed by the State of New York, and every fellow who has those bonds is avoiding taxes if they get a chance. They will hide them, they will lock them up, and do anything to avoid paying taxes. Talk about rich men not avoiding taxes! If you bring this surtax down to 25 or bring it down to 2 per cent they will avoid them if they can. They would avoid them at 25 per cent or 15 per cent. There is no sense in that sort of argument at all. How much would Arkansas get out of this proposition? Of a billion and a half tax-exempt Federal bonds I will wager there are not $100,000 of them in Arkansas. They are where all these municipal bonds are. Some of them might lodge in St. Louis a little while, go to Atlanta for a few days, and then go over to Chicago, stay there six months, and then go over to where these other bonds wind up—Wall Street—because they have the money of the country, gentlemen. How is any farmer or any citizen of any agricultural State going to get any benefit? These bonds finally arrive at New York—not the State, but down in the business district of the city. There is where the money is going to be made if any is made on this proposition, and they are going to make millions if you pass this resolution—made in increased interest rates.

Gentlemen, I heard a very able Republican say last night, I heard him make this statement, which was new. He said, "I am against the amendment"—I do not see him on the floor; if I did I would ask him to let me give his name. He is one of the ablest men on this floor. He said, "I have been for this tax-exempt amendment proposition, but I am opposed to it now, and I will tell you why"—and a reason which I had never thought of before—you can sometimes get a little information from a Republican [laughter], but here is his reason, and he said—there was quite a crowd, there were at least a dozen people there—"If we pass this amendment and if interest rates are increased I fear that in the next 15 or 20 years there will be a wholesale repudiation of State and municipal bonds. Therefore, I am against it."

The CHAIRMAN. The gentleman has consumed 30 minutes.

Mr. OLDFIELD. I will take just five minutes more. Now, gentlemen, there are many gentlemen who want to talk on this proposition, and I do not desire to talk much longer. I heard the gentleman from Iowa [Mr. GREEN] make a statement awhile ago to which I want to take issue, and there can be no question about who is right about it; I am right about it myself, and I will prove that I am. [Laughter.] He said the Canadian bonds which were taxable in this country sold about as cheap as tax-exempt bonds in this country. That is not so. He has not looked at the papers for the last few days. If he will look at the morning papers he will find that Canadian bonds sold at least 1 per cent higher than our municipal bonds in this country that are tax exempt.

Mr. GREEN of Iowa. I will give the gentleman the figures.

Mr. OLDFIELD. Will the gentleman put his figures in the RECORD, and I will put mine in?

Mr. GREEN of Iowa. I will put the figures in and they are in accord with the market quotation and will show the gentleman is wrong.

Mr. OLDFIELD. Now, I want to talk to the Democrats for a moment. Of course, this is not partisan at all, nothing partisan about this; it is not any more partisan than the Mellon tax plan. You know they got out tons and tons of propaganda on the Mellon tax plan. They could not pass the bill now if they left it to the Republicans alone, and they got out almost as many tons of propaganda on this tax-exempt security proposition.

You gentlemen who are here now and who were not here in the other Congress do not realize how much propaganda there was—stacks and cords of it, gentlemen. They spent all that money trying to convince the Congress of the United States to destroy the credit of the various States and various subdivisions thereof. Before you vote for this proposition you ought to be mighty careful. I hope all of you Democrats will vote against this proposition, because, gentlemen, it is wrong and unjust to the people of America. First, when you touch the taxing power of any State or subdivision of it you will stick a knife in the very heart of the sovereignty of that State. That is what you are doing, gentlemen. Now, gentlemen, before you cast your vote for this constitutional amendment telephone down to the Census Bureau and find out just how much your State owes, just how much your bonded indebtedness is. Take 1 per cent of that amount, and I am confident you will not find it in your heart to vote an increased tax of that amount, a tax in higher interest rates on your people. If you can do that, you can conscientiously vote for this proposition.

You can not keep the people of this country from educating their children. You can not keep the people of this country from building roads. You can not keep the people of this country from draining their wet lands, and you can not keep the people from irrigating the dry lands of the country. Cultivation will help the rest of the people as well as those directly benefited. You can not keep them from doing that, even if you charge them 10 per cent or 12 per cent. But you gentlemen ought not to compel them to pay one penny in the form of an increased interest rate if you can avoid it. And you do not have to.

I beg you, pay no attention to this Rockefeller propaganda, and for this reason: There are $12,300,000,000 of these bonds out now. I made the Assistant Secretary of the Treasury, Mr. Winston, admit that the instant you pass this resolution you increase the value of the bonds that are now out, or $12,300,000,000, by one-eighth. It would take 50 years, gentlemen, to get into the Treasury of the United States, in income taxes, the sum of $1,500,000,000 if people are honest about paying their taxes; it would take 50 years to get that into the Treasury—as much as we would in one instant put into the pockets of these people who already own those bonds.

Do you want to do that? Do you want to increase the property of the Rockefellers and of the other people who own these bonds to the extent of $1,500,000,000 when you know you will not get into the Treasury in 50 years more money than that? If you adopt this amendment you will increase the interest charge on the borrowers of America to the extent of at least $175,000,000 annually, and it will be impossible to get into the Treasury more than $45,000,000 annually. Gentlemen, the public, and especially the farmers, can not stand increased interest rates. I thank you, gentlemen. [Applause.]

The CHAIRMAN. The time of the gentleman from Arkansas has expired.

Mr. GREEN of Iowa. Mr. Chairman, I yield 30 minutes to the gentleman from Georgia [Mr. CRISP].

The CHAIRMAN. The gentleman from Georgia is recognized for 30 minutes.

Mr. CRISP. Mr. Chairman and gentlemen of the House, I have always been a Democrat. I do not know anything but Democracy. And notwithstanding I am a Democrat, from my viewpoint the welfare of the country demands that legislation be enacted that will stop the further issuing of tax-free securities, and therefore I am here to advocate and support this resolution and to urge Democrats to disregard the advice of my beloved friend who has just spoken, Mr. OLDFIELD, and urge them to vote for this constitutional amendment.

I have a great reverence for the Federal Constitution. I think it is the most marvelous document ever written by mortal man in any age or in any language. It has been the Magna Charta of our liberties, and I do not believe it should be lightly amended, or amended to meet every passing whim, but should be amended only when the welfare of the country as a whole demands it.

It is interesting to recall to you that this Constitution was agreed to in 1787, and in 1789, two years after its adoption, the first 10 amendments were adopted to it, known as the Bill of Rights, and you may say those 10 amendments were part of the original Constitution, because they were drafted by the framers of the original Constitution. From that day in 1789 until now there have been only nine amendments adopted to that sacred instrument. The eleventh amendment was adopted in 1791, which prevented the Federal courts from having jurisdiction of controversies between citizens of the States attempt-

ing to sue one of the sovereign States. The twelfth amendment slightly modified the law relating to the Electoral College, which was adopted in 1803. The thirteenth, fourteenth, and fifteenth amendments grew out of the War between the States, and from those amendments, arising out of the 1865 period, up to 1913 there was not another amendment adopted to the Federal Constitution.

In 1913 the sixteenth amendment, authorizing the income tax, was adopted. The same year the seventeenth amendment was adopted, relating to the election of Senators by the people. In 1919 the eighteenth amendment was adopted, relating to prohibition, and in 1920 the nineteenth amendment—the woman suffrage amendment. I think the history of this country has shown the foresight and wisdom of our forefathers, for the Constitution has proved not only good for them, but it has proved ideal for this Nation of 110,000,000 people, with few changes. I am constrained to believe the God of our forebears directed and controlled their deliberations in drafting our great organic law.

But, friends, our forefathers recognized that no matter how great this Constitution was, time might demonstrate the necessity for some amendments, and they provided a method of amending it. The States have recognized their right to amend this sacred instrument, and previous Congresses have also recognized it, for there have been already adopted to date the 19 amendments that I referred to, and these 19 amendments have in no way destroyed the sacredness of the Constitution or injuriously affected it.

Now I am told that there are many amendments pending before this Congress proposing amendments to the Constitution. I will support only one of them, and that is the amendment that we are now considering, because I believe the social welfare and economic welfare of the country demand it.

Now, when our forefathers drafted the Constitution for the purpose largely of sentiment and because under our splendid dual system of government we had two sovereigns—the Federal Government and the State government—the policy of the Constitution was that neither one of these sovereigns could tax the securities of the other sovereign. But when that was agreed to it was more sentimental than practical. In other words, what I mean, my friends, is that the tax-exempt privilege in securities at that time conferred no special, practical benefit, and it did not work any practical injury.

But when the people of the United States amended their Constitution by adopting the sixteenth amendment, which provided for taxing incomes, and Congress, pursuant thereto, passed a progressive income tax, then that tax-exempt privilege no longer was a theory, but was of vast vital importance, because with the high surtaxes on income taxes men with large incomes could invest in these tax-free securities and thus escape payment of their just share of taxation.

I believe in a graduated income tax. Economists of every country believe that the fairest of all taxes are graduated income taxes. They believe that men should pay taxes according to their ability to pay. We have an income tax law, both dominant political parties of the country supporting it, and we have provided for high surtaxes. Gentlemen, if you do not stop the issue of tax-free securities you absolutely nullify and destroy your income tax law.

It is the testimony before the Committee on Ways and Means that to a man with an income of between $200,000 and $300,000 a tax-exempt bond bearing 5 per cent was worth $140, because with his large income he would net as much income from one of those bonds worth $100, drawing 5 per cent interest, as he would get by investing $140 in some enterprise that was taxable. Therefore, to a man with a large income the $100 bond was worth $140, whereas to a man with a small income it was only worth par or $100. If you do not by law prevent it, the men with large incomes will escape taxation by investing in tax-exempt securities.

Now, gentlemen, I do not blame the rich. If I were rich, I would do it. The law invites it, and therefore there is nothing dishonorable in doing it. What I blame is the lawmakers and the law that continues to permit that policy to be pursued. [Applause.] The testimony before the Ways and Means Committee was that there are ten or fifteen billion municipal bonds outstanding, and, of course, this will increase their value. But you know it will be absolutely necessary some time to stop this practice or you will dry up your source of revenue for the Federal Government, and if the Federal Government can not collect money from the wealth of the land through an income tax, as sure as the night follows the day Congress will have to levy consumption taxes, sales taxes, excise taxes, and other vicious annoying taxes, for the Government must have revenue.

Now, gentlemen, I am opposed on principle to any large amount of property of the United States being immune or exempt from taxation. It is not good for the body politic; it causes social unrest and it causes discontent and dissatisfaction among the body of the people.

As I have before said, according to the testimony before the Ways and Means Committee, there are from $10,000,000,000 to $15,000,000,000 of State and municipal tax-free bonds within the United States. Think of that volume of property which pays no taxes.

Mr. GARRETT of Tennessee. Will the gentleman yield?

Mr. CRISP. I will.

Mr. GARRETT of Tennessee. That means, of course, that they are exempt from Federal taxation?

Mr. CRISP. Absolutely.

Mr. GARRETT of Tennessee. It does not mean that they are exempt from State taxation?

Mr. CRISP. All this Congress can do is to deal with the Federal proposition as to Federal taxation. Of course, each State can make its own laws and one State can provide for taxing the income from bonds of other States, the only limitation on the States being that they can not tax income from bonds of the United States. I grant you that one State can provide and levy a tax on the income from securities issued in another State.

Mr. STEVENSON. Will the gentleman yield?

Mr. CRISP. Yes.

Mr. STEVENSON. And any State can make its own bonds taxable without this proposition?

Mr. CRISP. Yes; just as the Federal Government can make its own bonds taxable, but the Federal Government can not under existing law make the income from State bonds taxable, and neither can the States make the income from Federal bonds taxable. This amendment proposes to do that very thing, and this amendment proposes to respect the sovereignty both of the Federal Government and the State governments, and it proposes in no wise to interfere with the sovereignty of either the States or the Federal Government. There is a limitation as to the amount of taxes which either the States or the Federal Government can levy upon the securities of the other. This amendment, if it is ratified, proposes to allow the United States Government to levy the same rate of taxation on the income from State bonds that the United States Government levies on the income from its own bonds; no more, no less. It proposes to confer that same privilege upon the States—that a State can levy the same rate of taxation on the income from Federal bonds that that particular State levies on the income derived from its own bonds.

My very beloved and distinguished friend from Tennessee [Mr. GARRETT]—and I, in common with all the House, love him and respect him—addressed the House this morning, and I regret I did not hear his speech; but I understand he said:

> If, unfortunately, war should come and one State should be opposed to that war it could levy such a high rate of taxation on bonds as to prevent the Federal Government from issuing the bonds necessary to finance the conduct of the war.

Mr. GARRETT of Tennessee. No; I beg the gentleman's pardon. I did not say one State could, because, of course, it could not; I did put forth the idea that a group of States could, which, of course, would be possible.

Mr. CRISP. Of course, my friend knows I wanted to quote him accurately, and my only regret is that I was obliged to be absent from the House and could not hear his speech. But, gentlemen, in my judgment, that can not be done, and it is unthinkable that any State of the Union would do that; but if any of the States attempted to do that, the result would be that they would destroy their own credit also, because every State which participated in the proposition of levying a tax upon the income from Federal bonds would have to levy the same rate that they placed upon their own securities, which would destroy their own credit, and self-preservation is the first law of nature.

Mr. GARRETT of Tennessee. If it will not interfere with the gentleman's remarks——

Mr. CRISP. No; I am glad to yield to the gentleman from Tennessee.

Mr. GARRETT of Tennessee. May I venture to suggest this very possible consideration, and I think it is not an improbable consideration: When the time comes for the Federal Government to refund some of its large issues of bonds, it would easily be possible for it, for the time being, to repeal whatever laws it may have in force affecting State securities and issue these bonds, refunding the present issue as tax exempt, and then the next day pass a law taxing the issues of the State, and that very same thing will be possible to a State.

Mr. CRISP. My very able, distinguished, and astute friend can make all kinds of hypothetical fences and hurdles to jump,

but my answer to that is that no Congress and no State legislature will do such a thing, and if they did their term of office is out in two years and at the next election they would be retired to private life and another Congress sent here to right the wrong.

Mr. MILLS. Will the gentleman yield?

Mr. CRISP. Yes.

Mr. MILLS. Not only that, but the proposition suggested by the gentleman from Tennessee could not be done; under this very amendment the Federal Government could not issue tax-free securities and the following week undertake to tax those securities.

Mr. GARRETT of Tennessee. Upon issues subsequent to that time?

Mr. MILLS. No; subsequent to the ratification of this amendment.

Mr. CRISP. Now, gentlemen, as I stated, I do not favor any vast amount of property being immune from taxation. Let me give you some idea of the value of the $12,000,000,000 or $15,000,000,000 of tax-exempt bonds now in existence. I have seen the statement made that the value of the entire United States, including lands and personal property of every kind at the time of the War between the States, was only $16,000,000,000, and yet here are tax-exempt securities immune from taxation, so far as the Federal Government is concerned, that equal in value almost the whole value of the United States at the time of the War between the States.

Mr. YOUNG. Will the gentleman yield?

Mr. CRISP. I yield.

Mr. YOUNG. I had hoped the gentleman during his remarks would give us the benefit of his studies with respect to France. He is on the World War Foreign Debt Commission, and I thought he might give us the benefit of the situation as to tax exemption there.

Mr. CRISP. I do not think I ought to inject that into a discussion of this kind. I appreciate the suggestion made by the gentleman, but I do not think it would be proper to inject it here.

Gentlemen, any great volume of property that pays no tax builds up an idle class; men who withdraw their money from active industry, men who give employment to none of their fellowmen, men who contribute nothing to the progress of the country, but men who remain idle and may be denominated the idle rich; who toil not, yet who live in luxury every day, men whose work is to clip coupons. Do you think that good for the body politic? Do you think that the man who labors 10 or 12 or 14 hours a day earning his living by the sweat of his brow, and then having all he can do to make a living to support himself and family, who is compelled to pay high taxes is in a happy frame of mind when he sees these others living in luxury who do not work and pay no taxes, do you think that makes him a contented citizen? Do you not think it makes him inclined to Bolshevism and to be against his Government?

Now, let me read an extract from a speech I made on this very question a year ago, and to my old colleagues I apologize for repeating some of the things I said then; but it is impossible to argue the same question without repetition:

> Now, let me call your attention to a few things. A man who works or is in business and earns an income of $10,000 must pay a tax to the Government of $520. A man who has an income of $10,000 from tax-free bonds pays no tax to the Government. A man who has $20,000 income from business pays $1,720 tax. A man who has $20,000 from tax-free bonds pay nothing. The man who has an income of $50,000, which he has earned, and contributes to the development of his country in giving employment to his fellow man, pays $8,640 income tax, whereas the man who is fortunate enough to inherit enough tax-exempt bonds from his father to net him an income of $50,000, pays not one cent to the Government that protects him. A man who has $300,000 from his business pays $144,000 in taxes, and the man who inherits bonds and has a net income of $300,000, pays nothing. Do you think that is good for the body politic?

I do not.

I realize the seriousness of amending the Federal Constitution, for I revere it and I would not support any amendment to it if this great evil, as I see it, could be remedied otherwise.

Mr. OLIVER of Alabama. Will the gentleman yield?

Mr. CRISP. Will my friend understand if I decline? I have tried two or three times to present some of my ideas without being diverted, and I hope my friend will understand my not yielding.

I do not see how this can be prevented otherwise. In 1913 the people of the United States desired to tax incomes from whatever source derived, and the Congress proposed an amendment, known as the sixteenth amendment, authorizing the levying of an income tax, and it was very promptly ratified, and we all thought that that amendment gave Congress the right to tax incomes from any source whatever, but in the case of Evans against Gore, when it reached the United States Supreme Court, it was decided that the sixteenth amendment did not give us authority to tax the incomes from these tax-exempt securities; that it only did away with the requirement for uniformity. Therefore, friends, there is no other way, in my judgment, for you to reach this situation.

Mr. GREEN of Iowa. Will the gentleman yield for a moment?

Mr. CRISP. Well, I will have to yield to my chairman.

Mr. GREEN of Iowa. The gentleman used the word "uniformity" when I think he meant "apportionment."

Mr. CRISP. I thank the gentleman for the correction. I overspoke myself.

Gentlemen, there are two objections urged against this constitutional amendment, and I sympathize with both. One is that it will increase the value of the bonds already existing. I think that is true, and I regret it. I also regret that I do not own a single bond that will be affected by it, so I have no ulterior motive. Unfortunately for me, I have not much of this world's goods; and I regret that the value of these bonds will be increased, but, friends, there has got to be a stop to it some time.

In 1922 there were $1,300,000 of these tax-exempt securities issued—many, many times the amount that had been issued in the preceding years. Friends, those who desire to invest in these tax-free securities hold out every inducement and invitation to every little community, every little school district, every little drainage district, to issue bonds, because they want the bonds because they are tax-exempt; and, in my judgment, many communities have issued bonds where I think the communities would have been better off if they had not issued them, because the taxpayers of those communities for years to come will have to pay the interest on such bonds. [Applause.]

If any community desires to issue bonds, if this amendment is ratified and becomes a part of the Constitution, it will not be prevented from doing so. They can readily sell their bonds. We read in Blackstone there are two things that fix the rate of interest—the scarcity or worth of money and the certainty of its being returned. State and municipal bonds have always brought a premium and have sold cheaper than the highest class industrials, because the security was safer, and there was more certainty of its being repaid. If this amendment is ratified and no other tax-exempt bonds can be issued, State and municipal bonds will still be more desirable and will bring a better price and sell at a lower rate of interest than the best industrial and railroad bonds will sell for, just as they did before the tax-exempt privilege became of so great a value.

In my judgment, if this amendment is adopted, the rate of interest on State and municipal securities will be slightly increased. The testimony before the Ways and Means Committee was to the effect that the interest would be increased anywhere from one-half to 1 per cent. Some financiers testified that after there was a readjustment there would practically be no increase in the interest rate on State and municipal securities; but admitting, for the sake of the argument, there is an increase of from one-half to 1 per cent, I regret it, but the preponderance of good that will flow from stopping tax-free securities in my judgment far outweighs the evil that will flow from a slight increased rate of interest in State and municipal bonds.

Much has been said about the farmer; and I am his friend. I know of no one who has suffered more in the last few years than the farmer. I know what they have been up against, because I operate a farm myself; but the testimony before the Ways and Means Committee was that only about 5 per cent of the loans on the farms of the United States were made through the farm-loan agencies, and that the others were made through private funds.

In my judgment, the 95 per cent of farmers who borrow money, which has to be borrowed in competition with tax-free securities, are paying a higher rate of interest than they would have to pay if there were no tax-free securities for the great wealth of the country to find a haven of tax dodging in.

I have great respect for and think most favorably of the rural credits act and the joint land stock banks. I voted for the laws that established them and I am still for them. They have done much good, and I agree with all that my friend has said about the institution of this governmental rural credit system making the long-loan companies reduce their rates of interest and cut out commissions, and I think the farmers have derived a greater benefit from these agencies in that respect

than have the few who have obtained loans through such agencies, and I would not do anything to injure them. As long as it is the policy of the Government to permit tax-free securities, I want the farm-loan banks to be able to sell tax-free securities, so the farmers can get the benefit, but I believe the farmers in my district—and I represent solely an agricultural district—have the love and the welfare of their country at heart to the extent they would be willing for the bonds that are sold to get money to be loaned them to be treated just exactly as all other bonds that are sold, and they would not favor their own bonds being tax free if the bonds of every State and municipality were taxable.

If doing away with tax-free securities will make the wealth of the land pay its just part of the tax burdens of government, I believe they will favor it. For when you relieve one class of property from taxation all other property bears more than its just share of taxes.

But whether they do or not, in my judgment it would not be equitable and just to deny to the State or the municipality the right to sell tax-free securities and continue it on the farm-loan bonds; therefore I am in favor of these bonds being treated as all other bonds.

Now, suppose the communities have to pay a little higher rate of interest to sell their bonds. If the tax-exempt privilege is done away with, I believe they will reap a greater benefit in an indirect way. Tangible property, and in some States ntangible property, is taxed to meet all the running expenses in these municipalities and communities, and they are taxed to pay the interest on the bonds that these communities have sold. If you bring in many millions of dollars of other property subject to taxation, the interest on these bonds, these communities will receive an income from the tax levied on the income of these bonds and will be enabled to reduce the taxes on land, houses, and tangible and other property in the community.

Now, gentlemen, I am not going to trespass any further on your time. I realize the seriousness of this question. It is not a political question; it is an economic question, and I realize there are arguments on both sides of it. I think the only thing for any of us to do is to consider the matter and make up our minds what we think is best for our country; and I know every one of you is actuated by the same motive that I claim for myself, to do his best for our common country that we all love, but let us study it and let each man make up his mind. My mind is made up. I started into the hearings before the Ways and Means Committee against this amendment. As the hearings progressed I could not see the question in any other way but what it was best for the country to do away with these tax-free securities. I do not see how any Member who favors a progressive income tax law can favor these tax-free securities.

The CHAIRMAN. The time of the gentleman has expired.

Mr. CRISP. I would like five minutes more.

Mr. GREEN of Iowa. I will yield the gentleman five minutes.

Mr. CRISP. As I said, I do not see how any Member who favors a progressive income tax law can favor tax-free securities because it is absolutely destroying the productiveness of your graduated income tax. Men who have large taxes to pay are investing in tax-free securities, and if you will notice the statistics in 1916 there were 1,296 people who returned an income of over $300,000, and in 1920 only 169 persons returned an income of over $300,000. Wealth is going where it will net the owner the greatest income. I do not blame wealth—if I were wealthy I would probably do the same thing. What I blame is the law that permits that thing to be done.

Mr. LONGWORTH. Will the gentleman yield?

Mr. CRISP. I will yield to the gentleman.

Mr. LONGWORTH. Is it not true that every dollar invested in tax-free securities increases the amount that people who earn their income have to pay?

Mr. CRISP. Yes, I think so, and I have tried to argue that. Mr. Mellon says that high surtaxes are interfering with the amount of capital invested in industry. I do not believe it. I think the great place where capital is dodging is the tax-free securities, and if you do away with that opportunity for him to invest in those tax-free securities, no matter what surtax you have he will have to use the money in industry and pay the tax, or he will have to let it remain in the bank, lie idle, and get nothing. So I say that the thing to bring out capital into industry is to do away with the tax-free securities.

Now, gentlemen, for myself I favor submitting this amendment. So, of course I shall vote for it. If a man is determined and definite and fixed in his own mind that it ought not to pass he will vote against it. But if any man is uncertain as to how he ought to vote, if a man has not definitely made up his mind as to what he will do or what he ought to do in the premises, will he not consider that it is probably the wise thing to vote to submit the amendment? Your action is not conclusive; this is a referendum. If the States desire to do away with tax-free securities they can not do it until it is submitted to them, and when it is submitted to them your action is not final. It is a referendum. If Congress by a two-thirds vote submits to the States the question of doing away with tax-free securities it remains for the States to determine whether they will do it. If we submit it, it takes a ratification by three-quarters of the States before it becomes a part of the organic law. In my opinion the economic evil is so great that I feel it my duty as a legislator to vote to submit the question to the States for their consideration, and I am going to do so. [Applause.] Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The gentleman yields back one minute.

Mr. GREEN of Iowa. Mr. Chairman, how does the time now stand?

The CHAIRMAN. The gentleman from Arkansas has consumed 50 minutes and the gentleman from Iowa has used an hour and four minutes.

Mr. OLDFIELD. Mr. Chairman, I yield 10 minutes to the gentleman from Alabama [Mr. BANKHEAD].

Mr. BANKHEAD. Mr. Chairman and gentlemen of the committee, I do not feel that I am sufficiently an expert upon tax or fiscal matters to contribute anything of any great value to this discussion from that standpoint. If I have the time, however, I expect to introduce some facts to prove that upon the whole the alleged benefits to the Federal and State revenues will be far outweighed by the additional burdens placed upon the taxpayers of the country.

But I do recognize in this proposition now pending before the House that we are dealing with a very grave and solemn matter, because it not only involves a proposed additional amendment to the organic law of the country, but it proposes an unusual feature in that it not only seeks to make it possible to put further additional restrictions and burdens upon the credit and securities of the individual States, but conversely and reciprocally undertakes for the first time in the history of legislation, as far as I am aware, to impose restrictions and limitations under the credit and securities of the Federal Government itself. I have a very profound reverence for the wisdom of those great forefathers of ours who framed the organic law of this country. The gentleman from Georgia [Mr. CRISP], a few moments ago, made reference to the 10 amendments which, in large part, were adopted by the influence of men who framed the original document, and I venture to call your attention to the tenth amendment, the last one those great men attached, because I fear that we in these modern times, in our legislation are too prone to forget it. It might be well enough, I think sometimes, to have it written above the Speaker's stand, in order that we might refresh our recollection upon the question. Let me read:

ART. X. The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

By this resolution you are undertaking to go to the very heart of the essential sovereignty of the States and of their people, because, as I pointed out, and as has been well pointed out by others, you are undertaking to regulate those very instrumentalities which are essential to the proper government of the people of the States themselves. The gentleman from Georgia made the argument that if there was any question of doubt as to the propriety or the wisdom of this resolution we should resolve that doubt in favor of the referendum and send it to the States, as allowed by the Constitution. That is a rather unfair attitude to assume toward those of us who are opposed to this proposition, and for this reason:

The very fact that we are required to pass this resolution by a two-thirds vote before it can be submitted to the people of the legislatures of the various States is in itself likely to be persuasive to the people of the States in their legislatures regardless of its merits, because it has been the history of nearly all resolutions submitted that they are ratified. I can not as a Representative of a part of the sovereignty of a great State consent to this, although I respect the divergent views of others upon the proposition. To me it is a radical and revolutionary proposition such as will bestow upon the Federal Government in Washington the opportunity and the power to say to the people of Alabama that Washington may exercise the right to put restrictions and limitations upon our municipal and local affairs to such an extent as might be extremely hurtful to the people of the different communities.

It is argued here in the majority report that tax-exempt securities make for municipal extravagance. Have we absolutely abandoned in toto the principle of local self-government among our people? Shall the people of Massachusetts or of Iowa say to the people of Mississippi or California, upon any proposition for the improvement of their schools, their sanitation, their drainage districts, their roads, that they have a superior wisdom over the people of those States touching those conditions, and that they will impress their judgment against the will of the people of those States who are supposed to know more intimately about the details of the situation than anyone else?

Mr. Mellon in his argument before the Committee on Ways and Means urged as one of the chief objections that it tended toward municipal extravagance, and that it tended toward giving community enterprises an unfair advantage over private gain.

The report of the committee itself in effect says that it objects to the privately owned utilities being subjected to competitive rates in the sale of their securities, and this argument assumes that private profits are of more importance than community prosperity, and I can not subscribe to that.

The people down in my section of the country, as compared with other sections of the country, have been greatly impoverished ever since that cruel and unfortunate Civil War in the sixties. Your commercial enterprises, your manufacturing establishments, in some sections of the country, your credit facilities, have been for a long time upon a solid financial basis. You have had sufficient wealth to extract taxes out of hand to meet your local and municipal necessities, but our people, however anxious as they were to progress along all social and educational and economic lines, with yours, unfortunately were too poor in their property values to levy a sufficient tax to meet their local necessities. Therefore they have been driven to the necessity of using the character and credit of our people as a basis for loans upon which to improve our local situation.

The argument is also made that tax-exempt securities are driving too much of the income of the country into that class of securities and away from business. Do you know that the last reliable statistics, and I think that I can vouch for them, show that only 1 per cent of the gross incomes of the United States comes from those sources? Those are the most reliable figures I have been able to ascertain as taken from the last report. Tax-exempt securities constitute only 2½ per cent of the incomes exceeding $50,000, and only 5½ per cent of the incomes in this country of over $300,000. Furthermore, only 3½ per cent of the property in the States reported for inheritance taxes for 1922 consisted of tax-exempt securities. Therefore, when you analyze the real purpose and figures in this case, even at the present time with this great issuance of such securities as have been argued against, you find that only a very negligible percentage of the gross income of the country and a very small and almost negligible percentage of the taxes of those sources of income are derived from these much berated tax-exempt securities.

It is argued here, and this is one of the chief arguments, that it is driving money out of productive enterprises, and that legitimate private propositions can not find a market for their securities because of the fact that there is such a demand for these municipal securities. Only a few days ago in New York City I am informed there was a bond issue of $50,000,000 for a telephone company, and it was sold there to bear 6 per cent interest. It was oversubscribed in a few hours 900 per cent. Yesterday at random I took out of a New York paper a clipping about a $15,000,000 bond issue of the Lehigh Valley Coal Co., and at the bottom it stated that the bonds had already been sold, but that the advertisement was inserted for the purpose of meeting legal conditions.

And I note in New York where there is an issue of $10,000,000 for the Philadelphia, Baltimore & Washington Railroad Co. and $5,000,000 for the Pittsburgh, Youngstown & Ashtabula Railroad Co. bearing 5 per cent, and the advertisement then adds that it is only published in the paper as a matter of legal form. So you will find this, gentlemen, in the New York, Boston, Philadelphia, and Chicago markets to-day that if any legitimate bond or stock is offered with adequate security at a reasonable rate of interest it finds a ready purchaser for the issue, and in most instances is oversubscribed. These are facts, and they are not exempt from taxation but bear their full proportion of all tax burdens. Gentlemen, I say you have no right under this proposition to say to the people of my State, where under our constitution we do not have any income tax, that it is not fair, that it is not just to the Federal Government or any other community or State to say to the people of Alabama that we shall be coerced into the adoption of a provision in our constitution which will authorize the levying of an income tax, because it would be tantamount to that—we would have to pass it in order to be upon terms of equality before we could levy State taxes on the income from tax-exempt Federal securities. I protest upon that principle against submitting this proposition to the States for their ratification.

Mr. CELLER. Will the gentleman yield?

Mr. BANKHEAD. I will.

Mr. CELLER. These issues which the gentleman read in the paper were not tax-exempt issues?

Mr. BANKHEAD. No.

Mr. CELLER. If the bond issues of the gentleman's State for drainage and otherwise were placed in the New York market at the same rate of interest, they would be grabbed up just the same as——

Mr. BANKHEAD. No; I do not think so. I do not think they would, because experience does not demonstrate it. On the contrary, experience has shown that without the tax-exempt provision they would not be on an equality in the market with other securities.

I protest against this resolution, because, in my opinion, it would be almost destruction of our Federal farm loan banking system, which has been of such tremendous importance to the farmers everywhere, especially in the South and West. Before the adoption of that system the average interest charge against farmers for short-term loans was from 8 to 15 per cent. The average rate to them now is about 6 per cent. The tax-exempt feature of the bonds of the system is entirely and solely responsible for the low rate of interest now prevailing. It is conceded that if the exemption is removed the interest rate would at once increase from 1 to 2 per cent. The farm loan system has already outstanding one and a quarter million dollars of bonds. The increase in interest would cost the farmers of America $100,000,000 a year in added interest charges, and put them back into the power of the private mortgage companies, from whose clutches they so recently escaped. Most of these mortgage bonds of the Federal farm loan system are held in New York. That State would get the benefit of nearly all the tax upon incomes from those bonds, and little of it would go to the States where the mortgaged farms are located.

I protest against the proposed effect of this resolution, which would be to place a tremendous additional value upon the billions of outstanding tax exempts without any compensating benefit to the people anywhere.

Another most serious objection to the proposal would be the most depressing effect it would have upon the price and issuance of highway improvement bonds. Under permission to extend my remarks, I append the report of a committee appointed at the last annual convention of the United States Good Roads Association, touching this subject which is a valuable contribution to the argument in opposition to the resolution:

HOW THE PROPOSED ELIMINATION OF TAX-EXEMPT BONDS WOULD AFFECT THE ROAD-BUILDING PROGRAM.

Report of the subcommittee appointed by the resolutions committee of the United States Good Roads Association, in convention at Greenville, S. C., April 16–17, 1923:

To investigate the probable effect upon the good-road building program of the adoption of the constitutional amendment proposed in a joint resolution introduced in the Sixty-seventh Congress and passed by the House of Representatives January 23, 1923, the effect of which would be to abolish tax-exemption on securities issued by either the Federal, State, or local Government units.

House Joint Resolution 314, Sixty-seventh Congress (known as the Green resolution).

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as a part of the Constitution when ratified by the legislatures of three-fourths of the several States:

ARTICLE —.

SECTION 1. The United States shall have power to lay and collect taxes on income derived from securities issued, after the ratification of this article, by or under the authority of any State, but without discrimination against income derived from such securities issued, after the ratification of this article, by or under the authority of the United States or any other State.

SEC. 2. Each State shall have power to lay and collect taxes on income derived by its residents from securities issued, after the ratification of this article, by or under the authority of the United States, but without discrimination against income derived from such securities and in favor of income derived from securities issued, after the ratification of this article, by or under the authority of such State.

A revolutionary change in our system of taxation is proposed. Before examining the specific effects upon road building that would result from the abolition of tax-exempt bonds your committee thought it desirable to present briefly a few of the more important principles involved. We have, therefore, considered the proposed constitutional amendment under the following main headings:

1. Is it right in principle?
2. Is it expedient or necessary?
3. How would it affect public improvements, particularly road financing?
4. Who are urging its adoption?

For those not interested in the evidence and discussion a brief summary is provided.

IS THE FEDERAL POWER TO TAX STATE AND LOCAL SECURITIES RIGHT IN PRINCIPLE?

"The power to tax is the power to destroy." This principle was laid down by John Marshall many years ago, and it is peculiarly applicable in the present case, since this is a question of granting the Federal Government the power to tax instrumentalities issued by the States. One of the arguments put forth by the proponents of this amendment is to the effect that this taxing power could be used to regulate the issuance of bonds by the States, counties, and municipalities, thereby curbing "extravagant expenditures."

It seems to your committee that the question of State and local expenditures should be of no concern to the Federal Government, and that any such power of regulation which might be acquired through the taxing privilege is not only a flagrant infringement of State rights but a dangerous precedent to establish.

IS THIS PROPOSED MEANS NECESSARY OR EXPEDIENT?

At times it has been considered necessary, or at least expedient, to deviate from well-established principles in order to accomplish some extraordinary good. Let us inquire what outstanding good this proposed measure is expected to bring about.

The arguments of those who would cut off the tax-exemption privilege are, in effect:

1. It would prevent alleged "tax dodging" by wealthy men who prefer to keep their funds invested in low-yielding, tax-exempt securities rather than to invest in business enterprises or securities paying higher returns but requiring heavy income-tax payments to the Federal Government.
2. By reducing the amounts of capital tied up in bonds more funds would be available for business development and expansion.
3. The rate of interest for private financing would be reduced.

No one knows even approximately how many bonds are held by wealthy owners for the purposes of tax dodging. Secretary A. W. Mellon, in his testimony before the House committee considering this question, placed the total amount of outstanding fully tax-exempt bonds at $10,660,000,000. He added, however, that perhaps half of this amount was not held by individuals but by insurance companies, trust funds, State funds, endowment funds, and the like, most of which would be exempt from taxation regardless of any law, because of the nature of the charters under which they operate.

Of the remaining half of these bonds, it seems evident that a considerable portion, probably at least one-half, are held by men in moderate circumstances. It is only the very wealthy man who reaps any material benefit from the surtax exemption. A man's total, net, taxable income must amount to $80,000 per year before the taxes he might possibly escape would be as much as 50 per cent. If his taxable income is only $50,000 his tax rate drops to 30 per cent.

It appears that the expression "tax exempt" is a misnomer. There is, in fact, no such thing as a tax-exempt bond. On the contrary, the so-called tax-exempt bonds are the only kind that absolutely guarantee the payment of taxes. What happens is that the purchaser pays the taxes in advance and at the source, and the Government or the State deducts these taxes out of the interest rate. First issue 3½ per cent Liberty bonds can be purchased as this is written to yield 3.43 per cent. The other issues, identically like the first, except that the income from them is subject to the surtax, are selling to yield 4.40 per cent. The difference amounting to practically 1 per cent represents the tax collected in advance. It should be noted that this 1 per cent for taxes is 22 per cent of the income from this bond. That is, it is the same as laying a 22 per cent income tax. On most issues of road bonds this would figure even higher.

As long as the surtax rate is 50 per cent on incomes of $200,000 or over, there would be a certain tax advantage to the holder of tax-exempt securities. As soon as the maximum surtax rate is reduced to 25 per cent or 30 per cent there would be little opportunity for tax dodging through the purchase of tax-exempt bonds. A measure making such a reduction in the surtax rate failed of passage in the last Congress by only a very few votes, and Secretary Mellon has already asked that a reduction of this kind be made in the near future.

If comparison is made between Government bonds and industrial investment of various kinds, we find that according to the testimony of Secretary Mellon investments yielding more than 10.4 per cent could pay even the highest income surtaxes and leave a bigger net margin than could be secured from tax-exempt Government bonds. Great numbers of investments yield in excess of 10.4 per cent. Men intent upon tax dodging need not limit themselves to tax-exempt bonds. As pointed out by Secretary Mellon, there are many other methods which successfully get around the high surtaxes. For instance, there is nothing to prevent a man from openly and legally making a gift of any part of his income to his wife or children. This splits the return up and cuts the tax to a low figure. Then there is the plan of buying property for a rise at the end of a long term of years. No income taxes are paid until the end of that period. It is sufficient to call attention to the fact that wealthy men have not ordinarily acquired their wealth by investing in Government low-interest bonds.

It seems evident, therefore, that not only has the amount of "tax dodging" through the purchase of tax-exempt bonds been grossly exaggerated in the public mind by propaganda and otherwise, but that the opportunity for such tax dodging will rapidly decrease and eventually disappear as the surtax rate is lowered.

Of course, no action taken at this time could affect securities already issued. If some means is desired to safeguard the tax-exemption privilege from abuse during periods of exceedingly high surtaxes, provision could be made whereby only partial exemption is granted to holders of large amounts of these securities. This principle applies to-day to several of the issues of Liberty bonds, particularly the later issues.

The contention that issuance of these tax-exempt governmental and local securities is restricting investment in other lines of business and increasing the interest rates seems to fall down in view of the large number of industrial issues of both stocks and bonds that have been eagerly absorbed by the investing public in the past two or three years. A recent issue of $50,000,000 worth of New York telephone bonds, bearing only 6 per cent interest and fully taxable, was oversubscribed by 900 per cent.

It appears, therefore, that the action contemplated by this proposed constitutional amendment is neither necessary nor expedient.

HOW WOULD REMOVAL OF THE TAX-EXEMPTION PRIVILEGE AFFECT PUBLIC IMPROVEMENTS, PARTICULARLY ROAD BUILDING?

The first effect of the submission of this proposed amendment to the States for vote would be to cause a flood of tax-free bonds to be authorized. Each State, county, township, and municipality would rush through issues not only to meet their present needs but their prospective later needs as well. Already certain financial institutions in New York have offered their services in a certificate-issuing scheme which would enable States to anticipate their future financial needs and issue the tax-exempt bonds on short notice whenever it became evident that the constitutional amendment would be adopted.

Assuming the final adoption of this amendment, the next effect would probably be to raise the value of all tax-exempt bonds outstanding. This increase would add to the wealth of the very group this measure is intended to restrict.

But the biggest and most noticeable effect in the various States would be an immediate increase in the interest rate that the local taxpayers would have to pay on new issues of bonds. This increase would have to be enough to cover the tax that the purchaser would thenceforth be required to pay. The best authorities on this subject agree that this increase in the interest rate would probably not be less than 1 per cent and possibly as much as 2 per cent.

This would mean, first, that authorization for these bond issues would be harder to secure by popular vote, since the necessary tax burden to carry them would be much heavier. A $1,000,000 tax-exempt issue which formerly required, at 5 per cent, an annual interest payment of $50,000 would (using the lowest rate of increase—1 per cent) require a $60,000 payment on a nontaxable basis. On a 20-year bond this would mean an added burden to the taxpayer of $200,000 for the $1,000,000 bond issue.

Secondly, difficulty might be encountered in selling these bonds even at the higher interest rates, due to the uncertainty as to what the future tax rate might be. A certain class of investors is principally interested in having an absolutely safe, steady, nonfluctuating income. The tax liability introduces an element of uncertainty that largely overthrows the main objective of this class of investors. For instance, a man having all his money invested in low-yielding Government bonds might have had his income cut in half by the increase in taxes during the war had his bonds been subject to taxation.

Advocates of this change in plan assert that the citizens of any given State would get an advantage through lowered taxes (due to the new revenue collected on bonds held in that State) which would just balance the increased taxes required to pay the higher interest rates.

But things do not work out that way in actual practice. The first difficulty arises from the fact that no tax-collecting system is perfect—much property always escapes taxation. Then, of course, it costs money to collect taxes. Experts of the Treasury Department think that they are collecting about 80 per cent of what is due and ought to be collected. This estimate is probably high. Then, in addition, the actual cost of making these collections must be deducted. If 70 per cent of

the taxes due in any State from taxable bonds—wealth easily concealed—ever gets into the Treasury to help pay off the increased interest charges necessitated that would be doing extremely well.

Increasing the amount of taxes due increases the temptation to conceal the securities.

But this is not the worst of the proposal. The worst feature from the standpoint of the Southern, Western, and Mid-Western States—the States that have the biggest road-building programs to work out—is the fact that these bonds would be taxed in the States in which they are held, not by the States in which they are issued.

That is, the citizens of Mississippi or Iowa, for instance, would pay the increased taxes necessary to carry the bonds, and the States of New York, Pennsylvania, New Jersey, and New England would get the benefit of the taxes paid on the majority of these bonds.

While no one has any reliable data showing just where the various bond issues of the country are held, yet it is generally believed that more than 50 per cent of them are held in the cities of the Northeastern States. More than 50 per cent of the bonds of the various Liberty loans were sold in the territory embraced in a circle centering at New York and reaching as far west as Pittsburgh.

It is plain, therefore, that the Southern, Western, and Midwestern States, particularly those having no large cities, would get a very small percentage of any taxes collected from these proposed new taxable bonds; yet the citizens of these States would be compelled to carry the heavy tax burden needed to pay the 1 to 1½ per cent higher interest rate required.

It may be argued, of course, that this is no different from the situation existing at the present time. Road bonds are not exempt from State and local property taxes except in the States where issued, and therefore the citizens of a western State pay the taxes to support these bonds, while the Northeastern States get the benefits of the major portion of the taxes collected from the holders of these bonds. This is true, but that is no justification for aggravating this situation by raising the interest rate and the necessary local taxation still higher.

A survey recently made by W. C. Markham, secretary of the American Association of State Highway Officials, showed that the total county highway bond issues proposed and authorized from January 1, 1919, to May 1, 1922, including Illinois and Pennsylvania State bond issues voted in 1918, amount to approximately $1,092,197,505. This does not include township bond issues in States operating under the township system.

It is the opinion of your committee that it would have been impossible to secure any such support for the good-roads movement—a movement subject to the popular vote of the people—were it not for the encouragement given by the tax-exemption privilege. Ordinarily the first question asked in any community contemplating a bond issue is, "How much will it increase the taxes?" Raising the increased tax by 25 to 30 per cent, as would be necessary under a nonexempt system, would in a large percentage of cases be the deciding factor that would materially affect the bond issue, if not eliminate it entirely.

In recent months much progress has been made in raising road funds through a tax collected on each gallon or gasoline sold. To date 29 States have adopted a gasoline tax, we are informed. Usually this tax is 2 to 3 cents per gallon. This plan seems to be a very just and equitable one for raising substantial funds for road purposes. It does not appear, however, that this fund will alter the necessity for further bond issues for road-building purposes.

Maryland has had a gasoline tax law in operation for some months, and a rough calculation made by a prominent road official indicates that a tax of 3 cents per gallon would fall short of meeting the State's need for road maintenance alone. Any tax higher than 3 cents per gallon not only imposes undue burden on the tourist but is too direct a tax on local motorists to be practical.

It seems evident, therefore, that while certain road funds may in the future be derived from new sources yet bonding for new construction will continue to be as necessary in the future as it has been in the past.

In view of the above observations, which seem to your committee to show that there is not only no particular advantage to be gained by this fundamental upset in our taxing system, but that great harm to the entire program of public improvement would result, it may not be out of place to inquire "Who are the backers of this project?" Sometimes the source of the support or opposition to a project is enlightening.

Outside of certain economists, representing principally the National Tax Association, who oppose the general principle of tax exemption on theoretical grounds, and Secretary Mellon, who only "suggests * * * that it may also be advisable to take action by statute or constitutional amendment to restrict issuance of tax-exempt securities," but who definitely recommends as a solution the readjustment of the taxes to a maximum combined normal and surtax rate of 33 per cent, the principal advocates of the measure to appear before the congressional committees considering the resolution were:

1. The secretary of the Farm Mortgage Bankers' Association.

2. The vice president of the United Gas Improvement Co., who stated that he represented the American Gas Association, the American Electric Railway Association, and the National Electric Light Association.

3. The chairman of the National Real Estate Board.

Your committee has no means of ascertaining at first hand the motives prompting such advocacy by these large organizations, but has been repeatedly told that the Farm Mortgage Bankers' Association is interested mainly in killing off the Federal Farm Loan System, which has proved a formidable competitor; that the public utilities people object to tax-exempt bonds for the promotion of municipal ownership of gas, electric, and street-railway facilities; and that the National Real Estate Board, being interested largely in holdings in the large eastern cities, hopes for a reduction in taxes through a curtailment of expenditures of public funds for high-grade schools, hospitals, and municipally owned utilities.

It is at least significant that the secretary of the Farm Mortgage Bankers' Association, at their annual meeting held last October, should say, in a review of the year's work:

"The high-water mark of our hopes was reached when the resolution to amend the Constitution was put on the congressional calendar with a favorable recommendation."

Your committee has no desire to cast any reflections upon any group of interests; no doubt their action is good business from their standpoint, but we feel that the special interests of this group should not be allowed to take precedence over nor interfere with interests of the general public as expressed in its present well-conceived and long-considered system of financing road building and other public improvements.

SUMMARY.

1. The proposed constitutional amendment would give the United States Government power to tax the income from all future issues of Federal, State, local, and municipal bonds. The States would be given a similar privilege with respect to future Federal bonds held by residents within their borders.

2. The arguments of those who urge its adoption are: (a) That it will prevent alleged "tax dodging" by wealthy investors; (b) that by reducing the amount of capital invested in public improvements more capital will be available for private business; (c) and that the rate of interest for private financing would be reduced.

3. This proposed measure does not appear to be right in principle. The power of the Federal Government to tax the instruments of the States would give the power to regulate or control their activities. This is a flagrant violation of the principle of State rights.

4. The proposed measure is neither necessary nor expedient. The total amount of tax-exempt bonds outstanding has been grossly exaggerated, and at least one-half of the total outstanding is held by institutions and funds that could not be reached by any law, since they are tax exempt by State charter. Since probably one-half the remainder of all tax-exempt bonds are held by small investors, to whom the exemption is slight, not more than a quarter of the total could possibly be held by wealthy tax dodgers."

As soon as the maximum surtax rate is reduced below 25 per cent to 30 per cent, as will probably be done in another year or two, the opportunity for this kind of tax dodging will rapidly vanish. There are much better methods of "legitimate" tax dodging open to the man of wealth who really desires to follow this practice.

If some means is desired to guard against abuse of the tax-exemption privilege during periods of high surtaxes, a system of limitation could be adopted similar to that used in the later Liberty-bond issues. Only the holdings of these bonds in modest amounts are allowed full tax exemption.

The contention that issuance of tax-exempt securities is restricting investment and raising interest rates in other lines falls down in view of the large amount of industrial financing now being negotiated at modest rates.

5. The proposed measure would seriously curtail public improvements, particularly road building. The interest rate on bonds would be raised at least 1 per cent. This would mean a heavy added burden to the local taxpayer and proportionately greater difficulty in getting popular authorization for new bond issues. Increased difficulty in selling the bonds might be encountered because of tax-rate uncertainties.

There would be practically no compensating reduction in property-tax rates in the States of the Midwest, South, and West, since the bonds issued by those States are believed to be held largely in the eastern cities. The taxes are collected where the bonds are held.

New sources of revenue for road purposes appear to meet only the maintenance needs. Bond issues for new construction will be as important in the future as they have been in the past.

6. The support for this proposed amendment seems to come largely from several self-interested groups who have appealed very successfully to an unthinking public through the use of popular catch phrases which will not stand the light of cold analysis.

O. M. KILE,
Chairman of Committee.
W. D. CARDWELL.
CHAS. BALLARD.

Mr. CRISP. Mr. Chairman, I ask unanimous consent to revise and extend my remarks.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia. [After a pause.] The Chair hears none.

Mr. GREEN of Iowa. Mr. Chairman, I yield 10 minutes to the gentleman from Alabama [Mr. HUDDLESTON].

Mr. HUDDLESTON. Mr. Chairman, again let me say that the paramount political issue for the next 20 years is and will be "Who shall pay for the war? Is the awful burden to be borne by wealth or by poverty, by the rich or by the poor?" That question we are in part answering here to-day.

For the next 20 to 30 years the tax burden of the people of the United States will be from three to four billions of dollars a year. Somebody has got to pay that money into the Treasury. Who is going to pay it?

I believe that the tax burden should be borne by those who have large incomes, and yet we find that those who have large incomes are more and more resorting to investing their funds in tax-free securities and thereby avoiding any share of the burdens of Government. The large income-tax payer is a disappearing quantity; yet we know that vast sums are being accumulated and that wealth is not being distributed but, to the contrary, that with accelerating speed it is being collected into the hands of a few. Unless we find some means whereby we can reach the rich who are now hiding their wealth away in tax-free securities, very soon it will come about in this country that those of great wealth will contribute practically nothing to the support of the Government and that the burden of taxation which must be borne by the people of this country will rest wholly upon the shoulders of the poor and those of moderate means.

There never was a fairer tax than an income tax. It places the burden of Government upon those who are best able to bear it. In addition to that it places the burden of Government upon the shoulders of those who derive the greatest benefits from Government and in whose interests its chiefest expenditures are made. I believe in the sixteenth amendment to the Constitution. It was proposed by a Democrat, it was advocated by Democrats, it was adopted by the support of Democrats, it was demanded in the platforms of our party, and it is in every sense a Democratic measure. Long have Democrats boasted that we were responsible for that amendment.

By voting for this amendment that is proposed here to-day I am merely carrying out the sixteenth amendment and the intent of Congress and the people of the United States when we adopted that amendment. Surely no Democrat need to apologize for supporting the sixteenth amendment and thereby standing by the principles of his party. I make no apology. I am sorry to see that apparently a majority of the Democratic side have reversed their faith in the sixteenth amendment and are opposing it in principle. It is they who have changed, not I. It is they who have departed from Democratic principles, and it is I who am upholding them.

The purpose of the measure we are discussing is to effectuate the intent of Congress and the people in adopting the sixteenth amendment. That amendment reads:

ART. XVI. Congress shall have power to lay and collect taxes on incomes from whatever source derived, without apportionment among the several States and without regard to any census or enumeration.

Note the phrase "incomes from whatever source derived." Could anything be plainer? We were foolish enough to think when we adopted the amendment that it meant what it plainly said; that its plain language would admit of no interpretation. Not one man in a million dreamed that it would ever be held that salaries of public officers and interest on public securities could not be taxed as income under the amendment. But wealth has a multitude of resources. The taxgatherer meets many obstacles when he pursues the rich. To everybody's amazement, the Supreme Court held that although the amendment said that taxes might be laid upon "incomes from whatever source derived," it meant a very different thing.

The court held that the amendment afforded no new subject of taxation and was effectual only to allow taxation "without apportionment among the States" of such incomes as might have been taxed before. The court held that despite the plain language of the amendment incomes could not be taxed "from whatever source derived."

I still believe in the sixteenth amendment. I believe in it just as much as I did when the national Democratic platform declared in its favor. I want to effectuate it according to its original intent. I want to vote for any amendment which may be required to make it mean what we all from the first thought that it meant—that taxes might be laid upon "incomes from whatever source derived." I want to tax official salaries and interest on public securities and all other forms of income. I want to tax the incomes of the rich, who reap the chief benefits of government, and make them support the institutions which protect them. I hold that it is fundamentally sound that there should be no discrimination in taxation of incomes on account of the source from which the taxpayer receives his money. [Applause.]

So far as a plain man could see, the sixteenth amendment did not exempt salaries of public officials or incomes from public securities. No one could read that meaning into it unless it might be a corporation lawyer with a peculiar, warped, and legalized mind which could interpret "yes" out of "no" and see white in black. There was no thought of exemptions when the amendment was adopted. I am for it now in its original intent. I am for a tax on incomes without regard to the source from which derived. [Applause.] I am for a tax on the salaries of public officials and incomes derived from Federal and State bonds and from every other source whatsoever. I believe it now just as much as I did when we adopted the sixteenth amendment. [Applause.]

Let me say this to my good friend from Alabama [Mr. BANKHEAD], who has just preceded me: Every argument that has been made or that can be made against this measure is in principle an argument against the sixteenth amendment to the Constitution, and every argument that can be advanced in favor of it is an argument in favor of the sixteenth amendment. Those who claim to have been for the sixteenth amendment and yet say they are against this measure have simply suffered a change of heart, and under a different orientation feel the pulsing of a different interest from that which previously moved them. It is upon you, gentlemen, who have changed front, it is upon you to apologize and explain and try to make yourselves appear consistent, and not upon us who are merely seeking to carry out the true intent of the sixteenth amendment as it was originally written and designed to be operated.

My criticism—that I am not able to give it enthusiastic support—is that the pending measure does not go as far as the sixteenth amendment. It does not undertake to reach the salaries of public officials.

Mr. GREEN of Iowa. Mr. Chairman, will the gentleman yield?

Mr. HUDDLESTON. I yield.

Mr. GREEN of Iowa. I entirely agree with the gentleman. I do not think the amendment goes as far as it ought to, instead of going too far.

Mr. HUDDLESTON. Yes.

Mr. GREEN of Iowa. But we had to recognize our limitations, and it was considered by the committee that if we undertook to tax the salaries of all these State officials we would arouse a further storm against the amendment, so that there would be no possibility of getting it put through.

Mr. HUDDLESTON. I realize the difficulty that the gentleman is laboring under. It is always the difficulty of those who are forced to choose between principle and expediency, of those who love principle and yet descend to compromise. I sympathize with the gentleman; he is chairman of the committee and had to surrender. But I haven't any responsibility, and so, thank God, I can advocate what I think is right. [Applause.]

The CHAIRMAN. The time of the gentleman from Alabama has expired.

Mr. HUDDLESTON. Will the gentleman give me five minutes more?

Mr. GREEN of Iowa. Mr. Chairman, I yield to the gentleman five minutes more.

The CHAIRMAN. The gentleman from Alabama is recognized.

Mr. HUDDLESTON. Now, in this five minutes I am going to work on the gentleman from Iowa [Mr. GREEN]. [Laughter.] The sixteenth amendment to the Constitution, gentlemen, did not say that incomes from whatever source derived shall be taxed except those incomes derived from securities heretofore issued. There was no exception of that kind, and yet we find the gentleman from Iowa standing here and pointing his finger at a Member with accusing scorn because he hinted that income from bonds heretofore issued should be taxed. The gentleman, I believe, voted for the sixteenth amendment, and as I know he construed it to mean that income derived from Federal bonds outstanding when the sixteenth amendment was adopted was subject to taxation; that such income was not exempt even in the hands of those who bought such bonds hoping thereby to escape taxation. If there was a good reason to tax income from Government bonds then, there is still a better one now.

The fly in this ointment—the fault in this measure—let me say to the gentleman from Iowa, is that in the first place it will increase the value of such securities already held by these

parties, and in the second place it enables them to accomplish their purpose of dodging their fair share of the burdens of this Government and paying the cost of carrying on our war. The trouble about this measure is that it will perpetuate the exemption from taxation, that war profiteers and contractors and other grafters, who exploited our country in the war, were trying for when they salted away their ill-gotten spoil in these tax-free securities. That is the trouble about this situation.

Let me say to the gentleman that, notwithstanding the expression of horror which came over his face when it was stated to him this morning that I advocated the taxing of incomes from whatever source derived, without exemptions to those who have heretofore made their investments or otherwise, I favor taxing incomes from bonds now outstanding. I was elected to Congress, expecting to get a salary of $7,500 a year, and yet the gentleman joined in voting for an income tax to take away from me a part of what I had a right to count on, to take it for Government purposes. The farmer who bought his farm before the war expected to receive the income free from tax. The manufacturer who built his plant did not expect his income to be tolled by war taxes. The capitalist bought his bank stocks, expecting to receive the full income which they might earn. All these were legitimate activities. Yet we intervened. They had already bought their securities. They had already invested in their plants. They already had their farms. Yet we intervened with heavy war taxes and took their incomes away from them. Men had made their investments prior to the adoption of the sixteenth amendment. That fact did not stay us. Prior to that time, all incomes were exempt. They invested on the faith of existing laws.

Yet we intervened and said, "No; you can not rely upon having your income exempt; we propose to take it away from you"; and we did take it away from them by the sixteenth amendment.

What more sacredness has the investment of the war profiteer who has hidden his spoil away in tax-free securities—what more sacredness has his investment than that of the farmer, the banker, or anybody else who has gone into business expecting to profit without having his income taxed?

As the gentleman from Iowa [Mr. GREEN] may remember, when this bill was before the House a year ago I proposed an amendment by which I advocated that taxes should be levied without regard to the source of the income and without regard to whether a man had made his investment before that time or afterwards. I remember that the gentleman from Iowa [Mr. GREEN] made a point of order which he was able to have sustained. I again have that amendment prepared in a slightly different form, and I shall offer it again in the course of this discussion. I trust the gentleman will not make his point of order but will leave it to the House of Representatives to say whether they are in favor of protecting these fellows who have salted away their millions in tax-free bonds. [Applause.]

The CHAIRMAN. The time of the gentleman has expired.

Mr. OLDFIELD. Mr. Chairman, I yield 10 minutes to the gentleman from Virginia [Mr. MOORE].

Mr. MOORE of Virginia. Mr. Chairman, I never expected to live to see the day when my friend from Iowa [Mr. GREEN] and my friend from Alabama [Mr. HUDDLESTON] would be smiling at each other with approval. [Laughter.] Anything is possible after that.

Mr. GREEN of Iowa. That has often happened before. The gentleman has not looked at us enough.

Mr. MOORE of Virginia. There was one suggestion made a moment ago by my esteemed friend from Georgia [Mr. CRISP], which seemed to point to this measure as being in some way complicated with early revenue legislation. Of course, we can cast out of view any such thought for the reason that if this resolution should be approved by Congress the adoption by the States of the amendment which it proposes would be so doubtful and so long deferred as to have at best no practical bearing upon legislation in the near or the quite remote future.

My friend, who has just taken his seat, is, I think, under a misapprehension as to what was intended by the sixteenth amendment and as to the view that was had of the amendment at the time of its adoption. Just for a moment let me refer to its history. The Supreme Court had said that it was not competent for Congress to tax incomes without apportioning the liability among the States. All the sixteenth amendment did was to relieve the difficulty by declaring that Congress might exercise that power "without apportionment among the several States and without regard to any census enumeration."

The opinion among lawyers and lay opinion generally was to the effect that the amendment would enable Congress only to reach incomes derivable otherwise than from securities issued by the States or the political subdivisions of the States. My distinct recollection is that the lawyer then regarded as the leader of the American bar, Mr. Root, said, in order to quiet some fear on that point, that in his opinion it would never be construed as authorizing Congress to lay its hand upon incomes derived from State and municipal securities. There were some who had a misgiving about that. Among them was Mr. Charles E. Hughes, then Governor of New York, and when the New York Legislature voted its approval of the proposed amendment, Governor Hughes vetoed its action upon the ground that he was fearful the courts might finally construe it as allowing Congress to exercise authority over such securities. One of the strongest arguments against the theory contained in this resolution was made by Governor Hughes in his veto message. During the course of this debate I may try to find that message and have it read into the RECORD. Much pressure in favor of this resolution is being exerted by certain New York interests, and yet the foremost statesman produced by that State in recent years took a resolute stand against the possibility of the very thing to which Congress is now asked to give its assent. Since the decision of the Supreme Court in the case of Gore *v.* Evans, we know that Mr. Root was correct and that Governor Hughes's fears were groundless.

Mr. Chairman, the gentleman from Alabama a moment ago said there is no fairer method of taxation than by taxing incomes. I agree fully about the expediency of that character of taxation. Yet I believe if it is desired to reach the swollen fortunes of this country and require them to contribute reasonably to the support of the Government, and without any injury to individuals or to society, there is nothing better that the Ways and Means Committee can do than to revise our present system of taxing inheritances [applause], so as to increase the rates beyond what they are now and so as to at least approximate the rates that obtain in England.

Mr. ABERNETHY. And there is no question but what that can be done under the present Constitution?

Mr. MOORE of Virginia. That can be done under the present Constitution, and it can be done in such manner that the States will refrain from taxing inheritances and leave that business exclusively to the Federal Government, that Government to turn over to the several States a proper proportion of the revenue collected from that source. There is no legitimate consideration which, in my judgment, can be urged against that proposition.

Mr. ABERNETHY. May I ask the gentleman a further question?

Mr. MOORE of Virginia. Yes.

Mr. ABERNETHY. That would reach these tax-exempt securities at the present time, would it not?

Mr. MOORE of Virginia. Of course.

Mr. HUDDLESTON. Will the gentleman yield?

Mr. MOORE of Virginia. Yes.

Mr. HUDDLESTON. Would not the inheritance tax which you propose upon these tax-exempt securities have all of the evils, and exactly the same evils, that you have pointed out and that have been pointed out as attending an income tax on these now tax-exempt securities? In other words, would not an inheritance tax upon them discourage investment in them and thereby hamper their sale?

Mr. MOORE of Virginia. I do not understand that it would. There is no difficulty in selling them.

The CHAIRMAN. The time of the gentleman has expired.

Mr. OLDFIELD. I yield the gentleman two more minutes.

Mr. MOORE of Virginia. Two minutes is mighty poor solace.

Mr. OLDFIELD. I yield the gentleman five minutes more.

The CHAIRMAN. The gentleman from Virginia is recognized for five additional minutes.

Mr. HUDDLESTON. Will the gentleman yield?

Mr. MOORE of Virginia. My friend realizes that I only have a few minutes.

Mr. HUDDLESTON. I just wanted to pursue that question.

Mr. MOORE of Virginia. One of my troubles is this: I suppose because I happen to have practiced law for a good many years I am always eager for the facts, and here, instead of the facts, we have conjecture and surmise, since nobody knows where the tax exempts are held now—whether the wealthy people of the country hold them to any such extent as is believed by some—to what extent they are held by active business men who are assumed to have turned away from the opportunity of making large profits in ordinary business; to what extent they are held by people of small means who are not in the surtax brackets. Whenever information is sought we are referred to the case of Mr. William Rockfeller's estate. It was mentioned in Secretary Mellon's original letter to the

chairman of the Ways and Means and in other subsequent letters written by the Secretary, and it has been repeatedly mentioned to-day by the advocates of this measure. That single example—that sole bit of evidence—is so continually mentioned. Mr. Rockfeller's name is so constantly used that it may not be improper to offer the advice contained in the lines from King Lear:

> Vex not his ghost: O! let him pass; he hates him,
> That would upon the rack of this tough world
> Stretch him out longer.

[Laughter.]

We are in the field of speculation, and therefore the other day I addressed a communication on that point to the Secretary of the Treasury, and as there is no time for argument I am going to employ the little time that is left in reading that communication and the reply. My letter was as follows:

JANUARY 17, 1924.

Hon. A. W. MELLON,
Secretary of the Treasury, Washington, D. C.

DEAR MR. SECRETARY: I am writing to ask whether it would not be desirable to require income-tax returns to show what tax-exempt securities, and of what character, are held, and whether it is not possible without any change of existing law? It seems to me, as I suggested on the floor of the House during the last Congress, that the data thus secured would be of much value in the way of avoiding some degree of mere assumption and conjecture in dealing with certain features of revenue legislation, as well as for its bearing upon the alleged necessity for amending the Constitution as now proposed. I believe that there was at one time such a requirement.

Yours very truly,

R. WALTON MOORE.

Mr. GREEN of Iowa. Will the gentleman yield?

Mr. MOORE of Virginia. I have not time. Here is the reply.

JANUARY 23, 1924.

Hon. R. WALTER MOORE,
House of Representatives.

MY DEAR CONGRESSMAN: I have your letter of January 17, with reference to the requirement that taxpayers report their tax-exempt income. This was not originally a part of the bill that I forwarded to the Ways and Means Committee. I have, however, recommended the inclusion of such a provision and I hope that when the committee comes to it they will adopt my suggestion. The information we received when a similar provision was in the earlier act was not complete and I have never been able to rely upon it.

Very truly yours,

A. W. MELLON,
Secretary of the Treasury.

The Ways and Means Committee had its attention called to the matter to which this correspondence relates in the last Congress, and probably in the Sixty-sixth Congress. We ought to be in possession of accurate and dependable data. We ought to have the facts before we go blindly forward advocating the adoption by the States of another amendment to the Constitution.

In the moment that remains I am thinking of the part my own State had in framing and ratifying the Constitution and of how the Virginians who were foremost in that work and those who followed them would have resisted such a theory as that embodied in this resolution. And I am glad to believe that it will be resisted by all the members of the Virginia delegation in this House. [Applause.]

Under the leave given me to extend my remarks I add a memorandum hastily dictated this morning, of which I had expected to make some use when I took the floor.

The measure will probably be debated at length in the Senate, if sent to that body. It will not be elaborately, but perhaps sufficiently, debated here. All that its opponents are doing here is to call attention to the fundamental objections to its enactment, and that is their duty; in spite of the fact that whatever may be the action of Congress the ultimate decision rests with the States. In the few minutes allowed me I shall specify some of the objections, although it may be a mere reiteration of what has been already better said.

The proposition strikes at the integrity of our dual system in further enlarging the authority of the Government of the United States to interfere with State action. Something is said in the report of the committee, but in my judgment unwarranted by the facts, to the effect that the supposed evil, if unchecked, will grow to such magnitude as to even threaten the existence of our institutions. We put against this the view of a greater danger which now threatens the existence of our institutions, and which is illustrated by this measure—a danger which in recent days has stirred the apprehension of numberless patriotic thinkers and writers. It is the danger of destroying the basic theory of our constitutional Union by reducing the States to the level of mere provinces and subjecting them at every point to the domination of a central government. None of us are monarchists, but beyond question some of us are, consciously or unconsciously, extreme imperialists, who are driving forward in a course which, if pursued, can have but one result.

This, of course, is a very general criticism of what is proposed. To be a little more specific, it is avowed in the report that the amendment is justified as a means of disciplining the States and the political subdivisions of the States by discouraging and hampering them in transactions now altogether within their discretion and control, transactions that involve borrowing money to carry on their various enterprises.

Had any such conception been pressed on the convention which framed the Constitution at the time the taxing power of the Federal Government was being considered it would have been surely rejected, and if finally insisted on by some of the States would have left the desire to form "a more perfect Union" an unrealized dream. I venture to say that if such a measure had been proposed during the last century no southern statesman would have approved it, and I doubt whether any northern statesman would have approved it. There would have been general disapproval without regard to section of party affiliations.

The reciprocal provision in the proposed amendment which assumes that the States are to have a right corresponding to that conferred on the Federal Government is based upon a premise which is hardly less than an insult to the States themselves. That provision would obviously be of no advantage whatever to any State which may not impose a tax on incomes, and, as I understand, only a minority of the States now impose such a tax. I suppose it was this circumstance, coupled with the other circumstance that very probably the obligations of the Government will be rapidly retired, that led to a very significant remark being made during the hearings in the last Congress by the author of the original resolution, a gentleman from Pennsylvania, Mr. MCFADDEN, and his remarks indicates the premise to which I allude. The original resolution conferred authority on the Federal Government to tax income from local securities. It contained no reciprocity clause. When such a clause was suggested, Mr. MCFADDEN said at the time the matter was under hearing in the Sixty-sixth Congress:

> If I was following my own thought in that connection, I would not refer to that. I think the question of giving the States the same right is largely a political sop, as you might say, to get them to ratify the whole proposition.

We have thus reached the time when the States are to be cajoled, or persuaded by an illusive bribe, into a further surrender of the sovereignty which they now possess.

The supposed evil is greatly exaggerated. There have always been tax-exempt securities issued by the States and the municipalities of the States, and such securities have always represented, as they now represent, a very small percentage of the total pro rata public indebtedness, and a very small percentage of the total outstanding securities. At this time the entire volume of securities altogether tax exempt is a little over $12,000,000,000. The income from such securities is trifling when compared with the full income derived from all securities. The statistics for 1920 show that it was less than 3 per cent. An analysis of the inheritance-tax figures for 1922 shows that the tax-exempt property held by the over 12,000 decedents whose estates were subjected to an inheritance tax was less than 4 per cent—to be definite, 3.59 per cent—of the value of those estates. And yet in the face of this showing of the relative unimportance of the tax-exempt securities it is contended here with vehemence, and even with emotion, that there is a serious menace from which the country can only be freed by another amendment to the Constitution.

It is claimed that active business men are investing their capital in tax-exempt securities, and that these securities are mainly held by people of wealth. In other words, it is claimed that the former class turn away from the profits that actively conducted business promises and affords, and that the latter class are content with low rates of interest on their investments. Such an argument is so strongly against reason as to demand evidence for its support, and the evidence is lacking. We do not know how the securities are held. The Treasury does not collect the statistics on this point. We are left in doubt and all the time invited to regard the William Rockefeller estate as indicating the situation.

The Secretary of the Treasury and gentlemen who have spoken here harp on the William Rockefeller estate. At the same time they ignore the 1920 data, the last data that is available, from which it appears that a very slight percentage of the value of the over 12,000 estates dealt with in that year was represented by tax-exempt securities. There has been long delay in dealing with the dreadful menace by which we are said to be confronted. Why not delay a little longer until the facts can be obtained—until we can know whether the claim is well founded to which I am adverting?

I do not object to letters bearing upon proposed legislation, or to petitions, or to propaganda. But, scrutinizing the outside efforts in behalf of this measure, one is somewhat surprised to find that the powerful and wealthy, who are said to benefit by the existence of tax-exempt securities, are those who have exerted the most direct influence in behalf of this measure. I have not heard of any large banker who does not favor it. I have not heard of any large money lender, who makes loans on real estate or otherwise, who does not favor it. Its original patron here is a banker and one of its ablest and most earnest advocates is associated with some of the largest financial interests of the country. I am offering no criticism, and certainly I am not trying to create any hostility whatever to any class or group. I am pointing only to one circumstance which in fairness should be taken into account. I believe some of the farm organizations are said to advocate the amendment, but I am convinced they do so without sufficiently considering what its adoption will mean. The more than 6,000,000 farmers in this country are not suffering so much from Federal taxation as from local taxation. The percentage of them paying a Federal income tax is small, but they pay their full share of the heavy and increasing local taxes on real and personal property.

In that respect they are now under a burden which they are hardly able to bear, and so far as there being any prospect of relief, their fear is that the burden will become greater as time goes on. They contribute heavily toward providing for the interest on bonds which are issued by the States, the counties, the districts, and the municipalities of the States, and their liability is measured by the rate of interest. No one can deny that if hereafter the income on such bonds is to be taxable by the Federal Government they will bear a higher interest rate, which will require the people of the States, the counties, the districts, and the municipalities of the States to pay higher taxes than would otherwise be the case. Should the amendment be adopted those who pay local taxes, which in the total enormously exceed Federal taxes, will fully understand the practical operation of the new method. The farmers will certainly understand it. They will not only pay a higher rate of interest on the loans which they obtain under Federal legislation but they will be charged with additional taxes to meet the higher rates of interest on bonds issued to promote education and public health, to construct highways, and for other purposes. Are they ready for this? Are we ready for it?

Mr. GREEN of Iowa. Mr. Chairman, I yield 20 minutes to the gentleman from Wisconsin [Mr. FREAR].

Mr. FREAR. Mr. Chairman, Congress is placed in a peculiar position, and never more so than during the present session. We have had sent to us for passage this session bills on taxation from an administrative official and told to pass them. These measures are approved by other distinguished officials, and thus has been taken away the constitutional prerogative that is supposed to rest in Congress, the right to initiate revenue bills. We pass a bill here in the House; it is then passed by the Senate and signed by the President; then sent to another body of nine distinguished gentlemen, and they tell us whether or not it is law. In other words, we are told what to pass by one coordinate branch of government, while another determines for us whether it is law. I am going to discuss for a moment, if I may, this situation presented to us as intelligent legislators—because, I assume however rashly, we are fully as intelligent as some of those who attempt to pass on our work—and in the brief time allotted to me I desire to refer to the proposed constitutional amendment before us that seeks to prohibit tax-free securities after approval by the States.

The gentleman who just preceded me [Mr. MOORE of Virginia], for whom I have the highest respect as a Member, and a close friendship, questioned the use of the threadbare illustration regarding tax-free securities that has been given by the estate of William Rockefeller, and my Virginia friend wants his bones to lie in peace. I, too, am willing that that should be so. He further says, "Why is William Rockefeller quoted alone?" Because, I assume, it is such a startling example of the evils of the present system of placing fortunes in tax-free securities which we must all recognize. It was not disclosed to us alone by the gentleman who has charge of the Treasury Department, Secretary Mellon, but by those who represented the estate and who gave facts published in the public press. Mr. Rockefeller is only an illustration of existing tax evasions which were disclosed by his estate. Forty-three millions were laid by in tax-free securities that could not be reached until to-day when it becomes subject to the inheritance tax. Secret Treasury records prevent us from knowing the extent of these tax evasions.

Mr. STEVENSON. Will the gentleman yield?

Mr. FREAR. If the gentleman will withhold his question, I have only a few minutes and I want to discuss a great constitutional question in about 10 minutes if I am able to reach it by that time. Mr. Rockefeller had $43,000,000 in tax-exempt securities the record shows, and never paid 1 cent toward the support of the Federal Government from the income from these securities until he died. Then it will be partially reached by an inheritance tax. Only $3,000,000 of Standard Oil securities were held by him at the time of his death. Nearly fifteen times that amount was found to be in State and municipal securities, I understand.

My friend from Virginia spoke of the fact that the Virginia delegation is going to stand together, every man of them, against this constitutional amendment proposition. I appreciate his forceful argument offered against Federal tax interference, and yet the Federal Government is going to take from any man in Virginia or any man from New York who has tax-free securities when he dies the amount determined by laws we pass in Congress that reach the citizens of every State. The inheritance law then applies. What is the distinction? Alive or dead it is not the security you want to reach, but the income from that security. So let me say to you, my friends who are opposed to the proposed amendment, that I am supporting it although I do not think it gets very far, but supporting it as a matter of principle. It is just as fair and right, constitutionally and otherwise, to my mind, as is the inheritance tax which knows no State lines and is based on a principle we all accept. If a man dies in Virginia or New York or in my own State his estate pays its full tax up to 25 per cent toward the support of the Federal Government. I am ready to second the efforts of my friend from Virginia, Judge MOORE, and place the inheritance tax rate much higher.

Now, what is the situation with tax-free securities? We know that as high as twelve to twenty billions of dollars, and I think Dr. Seligman put it as high as thirty billions of these securities in one form or another, are now held by the public. We have been told by various people high in authority that there is no question but what men to-day are escaping fair taxation because they are able to invest in these tax-free securities. The secret Treasury records so disclose. The Secretary of the Treasury says, "You can't help it except by reducing income surtaxes." That is the only argument offered to the bill coming up before you next week. Reduce surtaxes from 50 per cent to 25 per cent in order to coax investors in tax-free securities to pay their just taxes.

Now, think of the proposition that is presented to the American Congress when we are told by these men who evade their taxes, "You can't reach me; I will not pay a dollar in taxes; you can't touch me because I have bought—" what? School-district bonds way down in Texas or up in Wisconsin; sewerage bonds over in New York State, and under the assumed decision of the Supreme Court you can not touch that. You can not reach the income of these bonds because the Supreme Court of the United States says these securities are tax free. Is that true? I do not think the court has ever said so, and I will try in the brief time allotted, to give you the best authority I can find on the subject before I get through.

I remember when I first started to practice in justice's court the large amount of legal knowledge I felt I possessed was greater than in later years. I practiced many years before entering public life, and like the average practitioner had a good many cases before the supreme court of my State before retiring from active practice. When I started my career, like the opposing counsel in justice courts usually do, I lined up a stack of big law books, just like those the gentleman from Iowa now has before him. These were used by me to show the justice why the law was unconstitutional. We quite frequently found ourselves in disagreement with the State or Federal Supreme Court, but that did not affect our confidence in our own position, whatever the court might say. The Iowa gentleman—Judge GREEN—will demolish my argument, I suppose, with the array of law books before him that are so artistically bound round with red tape. Possibly there is some significance in the red string. Over in Moscow, and everywhere I went in Russia last summer, red was the prevailing color that

bound everything. There may be some significance in the battery of books he has assembled to prove the necessity for passing this constitutional amendment to meet these so-called tax-free securities, and the brilliant red cord that holds the books together is the only thing I prophesy that connects the decisions with the question of constitutionality before us.

As I look at the books on his desk now I am again reminded that when in justice court I believed that I knew more about law than I have ever known since. That is the experience of the average person who has practiced law. I have often felt that a man who brings a score of books to support his position is heavily loaded with case law but really ought to have some other authority to depend upon, and that is what I have brought to you to-day. No books will be presented by me, yet I believe I know generally what is in those books bearing on this subject, because I have read the cases, or most of them, and when the distinguished gentleman from Virginia [Mr. MOORE] speaks of Evans against Gore, which he feels is decisive of the question, let me say I expect to produce the opinion of the Government attorney who tried that case. Not to construe the law, but to distinguish the different principles involved in the cases tried. In that case the court did not say that the income from such securities were not taxable. The majority opinion suggested by obiter dicta that that doctrine had been held, but the question has never been squarely met since the sixteenth amendment was passed. The sixteenth amendment provided that net income should be taxed from whatever source derived, and the American Congress and the American people believed that that was the law. When the Macomber stock-dividend case arose, four judges dissented from the remaining five and said that it was inconceivable that the people of the United States ever intended to exempt stock dividends when they approved the income-tax amendment. Remember, the court by a five-to-four decision had previously set aside the income tax law, so that one judge compelled the passage of the sixteenth amendment, which again one judge expurgated as to stock dividends. It is inconceivable that the people of America when they passed the sixteenth amendment ever expected to exempt these State and municipal securities, nor did they so intend. Of course, I can quite understand that the gentleman from Iowa, chairman of the committee, may have a different viewpoint from mine, just as I understand that gentlemen sitting opposite me on my right have different political viewpoints, but I contend that instead of seeking to read into court decisions a strained finding not before the court, it is our duty to insist that the law means what it says and leave to the court the responsibility of saying to the contrary. Litigants can go into a court and ordinarily determine certain principles enunciated by the court, and I may concede for sake of argument that five votes, or a majority of the Supreme Court of the United States, would find in favor of this contention on its full presentation before the court. I am conceding this much for the sake of argument, only based on past experience, because they may have followed lines of thought not possessed by the people who approved the amendment, and I am not criticizing the members of that court in this statement.

I have just as high appreciation of that body as the average Member, but I do say that if you put a provision in the law, as in the bill I have introduced, H. R. 4524, that to set aside a law of Congress it shall require the concurrence of all of the members of that court, excepting one, it will be wise to do so. That is the provision of the Ohio constitution, the home of the present Chief Justice, and I submit it is both common sense and good practice. Many excellent authorities urge a two-thirds vote of the court, or seven judges, in the affirmative to set aside a law passed by Congress, but I propose in H. R. 4524 that the court must be nearly unanimous to set aside the act when passed by Congress. The court in the income-tax decision and stock-dividend decision split hairs and divided 5 to 4 in emasculating the income tax law. The court's severest critic in both cases was the minority decision, which in the Macomber case said, to use the language in that case of a dissenting opinion by Judge Holmes, one of the ablest judges in the country, in which Justice Day concurred:

> The known purpose of this amendment was to get rid of nice questions as to what might be direct taxes, and I can not doubt that most people not lawyers would suppose when they voted for it that they put the question like the present at rest. I am of the opinion that the amendment justifies the tax.

Let us see what authority I have for saying that an act directly requiring the Secretary of the Treasury to list as taxable the net income from Federal, State, and municipal securities should be passed and why a law passed by Congress to that end should be held valid. We had this question up before the Committee on Ways and Means, and inside of five minutes I was driven out of the presence of that body, figuratively, without having a chance even to read a letter that I thought had some bearing upon the question. They pitched me out, metaphorically speaking, as they did the other day when it came to differences on the surtax, all of which I accepted willingly, because I realized the committee was too well informed in its own judgment to waste more time on the subject of constitutionality of a direct law to reach these tax evasions or on surtaxes after Mr. Mellon has spoken so sharply and positively to us.

Mr. GREEN of Iowa. Will the gentleman yield there?

Mr. FREAR. Yes; certainly.

Mr. GREEN of Iowa. I do not know when this pitching out occurred.

Mr. FREAR. Oh, of course, it was done in a gentle and courteous way, but nevertheless it was effective. [Laughter.] Let me tell the House what happened. It was in executive session, and we are not allowed ordinarily to disclose what occurred there; but I was practically alone at that time when the subject was summarily disposed of. In fact, I made no argument and offered no authorities. Two men did. One was the gentleman from New York [Mr. MILLS], whose profound knowledge of constitutional law coincided with that of a young man who spoke for Mr. Mellon, a youth 25 years old, who confessed he had been admitted to the bar and therefore was properly installed as the legal adviser of the Treasury Department of the Government. He is a nice young man, Mr. Gregg by name, and seemed to know beyond question that the Supreme Court had fully decided the matter. His confidence was a reminder of my own confidence of youth. The next morning, bright and early, after the committee meeting I had placed on my desk a letter from the Secretary of the Treasury, which was published in full in the New York papers, to the effect that I stood alone among all the lawyers of my committee in the executive session the previous afternoon. How did Mr. Mellon know that fact? The committee was in executive session. I did not tell him. But I have a suspicion that that same evening a little bird flew from the committee meeting to the other end of the Avenue and helped frame a letter that reached me early the next morning, in which the committee executive proceedings, including the vote of a subcommittee, were spread over the pages of New York papers and the country was informed by Mr. Mellon of the vastly important fact that I differed from my colleagues present in my construction of the law, as voiced by Mr. Mills and Mr. Gregg. This at least had the virtue of being quick work.

Mr. GARNER of Texas. Mr. Chairman, will the gentleman yield?

Mr. FREAR. I do not think the gentleman from Texas [Mr. GARNER] told the Secretary what occurred, because he was not there.

Mr. GARNER of Texas. I think the gentleman ought to acquit the Democrats from the charge of kicking him out.

Mr. FREAR. I do that willingly. [Laughter.] The gentleman from Texas ought to be in a position to understand my exact emotions. Here is a letter which I received this morning from a man who knows more about the subject before us than any man in the House, possibly, and I will quote later extensively from his careful analysis of the different cases bearing on the subject. I believe his opinion will rank in grasp and clarity of thought with any opinion on the subject uttered by members of the Supreme Court. I do not believe it is an exaggeration to say he is a recognized legal authority of high standing. Speaking of Gregg's opinion for the Treasury Department, he says:

> Instead of being a reasoning argument, it seems to be only a stupid reiteration of every point in dispute. Apparently like the bellman in Alice in Wonderland, Gregg thinks that if he says a thing three times it is so.

Mr. Chairman, the legal spokesman for the Treasury is a very likable young man, 25 years of age, and is to be congratulated over his high position as constitutional adviser for the Treasury Department of the United States and apparently legal counsel for the Ways and Means Committee. I admit that the chairman of that committee is also an able lawyer. He says that he knows the law, and I do not question it, for I have much confidence in his opinion ordinarily, but when there is reasonable doubt—and I am proposing to show there is reasonable doubt—I submit that the doubt ought not to be resolved by Congress against itself where hundreds of millions of dollars in annual governmental revenues are involved.

Mr. GARNER of Texas. The question has never been submitted to the Supreme Court.

Mr. FREAR. No. Never, as I am prepared to show.

Mr. GARNER of Texas. If the gentleman from Wisconsin would submit his amendment without attaching a condition about the Supreme Court he might get more votes for it.

Mr. FREAR. It is not a question of getting more votes unless the House is willing to pass the bill and not have it overturned by a five to four decision. Sooner or later it is my judgment that Congress will not be content to pass laws and pass constitutional amendments, like the sixteenth amendment, only to have the will of the people set aside by one deciding member of the court. Again let me recall the words of the four dissenting judges in the stock-dividend decision affecting this same sixteenth amendment:

If stock dividends representing profits are held exempt from taxation under the sixteenth amendment, the owners of the most successful businesses in America will be able to escape taxation on a large part of what is actually their income. So far as their profits are represented by stock received as dividends they will pay these taxes not upon their income but only upon the income of their income. That such a result was intended by the people of the United States when adopting the sixteenth amendment is inconceivable. Our sole duty is to ascertain their intent as therein expressed.

A suggestion of some respect due Congress is voiced when the dissenting opinion further says:

It is but a decent respect due the wisdom, the integrity, and the patriotism of the legislative body by which any law is passed to presume in favor of its validity until the violation of the Constitution is proven beyond all reasonable doubt.

These are not my words, but four eminent members of the highest court in the land give voice to that effect, yet are outvoted by one judge.

Mr. Chairman, I am hoping eventually to get my bill to tax these securities before Congress and possibly before the country. It may not be exactly with my language, but I care not for that, as I have no pride of authorship, but I submit that when members of the Supreme Court speak so positively we may well heed the warning. I want to get all of those incomes to-day that ought to be taxed, so that men of large means can not come to Congress and figuratively hold us up and say, "We escape taxation." "We will not pay taxes unless you fix the rates to suit us." "We will not pay on our incomes from sewerage or water bonds for the support of the Government, because the Supreme Court excuses us from so doing." I hold in my hand a discussion of the constitutional question involved in so-called tax-free securities by a man whom I think will be conceded to be—and many Members are familiar with his standing—a leading writer on jurisprudence, Edward S. Corwin, of Princeton University. I know his name is familiar to some of the Members, and I submit his views because I believe them to be eminently sound and convincing. He has made a very full investigation of the power of Congress to tax incomes from State and municipal bonds and reaches clear-cut logical conclusions that Congress has power now to tax these securities. I will read an extract from what appears on the front page of the pamphlet. It says:

What is needed is not further tinkering with the Constitution, but an act of Congress assertive of its present powers.

I shall insert in these remarks his views, but as my time is brief I now offer the testimony of the lawyer who tried the Evans and Gore case on the part of the Government. He was then Assistant Attorney General, and I wanted to read his letter before the Ways and Means Committee, but they did not care to hear it.

Mr. GREEN of Iowa. I beg the gentleman's pardon; he never asked to read the letter.

Mr. FREAR. I produced the letter, and the gentleman from Iowa said, "Let me see it," and then he handed it back without comment, and the vote was taken immediately, joined in by the gentleman from Iowa, to the effect that the Supreme Court had determined the question and Congress had no power to act because the court had said so, notwithstanding a constitutional amendment empowered us to do so.

The CHAIRMAN. The time of the gentleman has expired.

Mr. FREAR. Will the gentleman from Iowa yield me five minutes?

Mr. GREEN of Iowa. I will yield the gentleman five minutes.

Mr. FREAR. I thank the gentleman for the courtesy and friendship that exists in the House, even though we may differ on what the Constitution means. This letter is from Mr. Frierson, who tried the case of Evans against Gore in the Supreme Court on the part of the Government as Assistant Attorney General.

Mr. OLIVER of Alabama. Does not the gentleman propose to put in those letters?

Mr. FREAR. I am going to put in portions, if not all, of these letters and briefs, because the question is so important I believe it proper to do so. This is what Mr. Frierson says in an extract from his letter:

If my argument in Evans *v.* Gore had been successful and the dissenting opinion of Mr. Justice Holmes in that case had been the opinion of the court, I would have little doubt that the income from such securities would be included in taxable incomes. The majority opinion in that case, however, makes the question more doubtful.

He says that the majority opinion in that case, however, makes the question more doubtful. I admit that it is generally doubtful what the Supreme Court will finally do on any construction of the sixteenth amendment, judging from the dissenting opinion in the Macomber case which was quoted. I do not believe, however, any practicing attorney is better able to discuss intelligently the question before us than Frierson, because he has carefully studied all the cases cited. He tried the case of Evans against Gore before the court. He discussed it briefly in the letter and admits the court's findings in that case, which is clearly obiter dicta, makes the question more doubtful.

Now, I want to get back to the statement of the gentleman who just preceded me [Mr. MOORE of Virginia], who quoted correctly when he spoke of the opinion of one of the ablest lawyers of New York, Mr. Hughes. Here is what Mr. Hughes said when governor and the amendment was then up for action by the State of New York:

It is to be borne in mind that this is not a mere statute to be construed in the light of constitutional restriction, express or implied, but a proposed amendment to the Constitution itself which, if ratified, will be in effect a grant to the Federal Government of the power which it defines. The comprehensive words, "from whatever source derived," if taken in their natural sense would include not only incomes from real and personal property, but also incomes derived from State and municipal securities.

It is contended that the case of Evans *v.* Gore overrules that doctrine. It does not have any direct relation to it, I submit, but I can not, as I said, discuss this question in a few brief minutes as I would like to do. That case concerned only salaries of judges and was based on another constitutional provision affecting diminution of judges' salaries. The remarks beyond that were only dicta. The sixteenth amendment extended the right to Congress to tax on all income from whatever source derived, not as real property, but as incomes, and that is the point of distinction he makes, and that is the distinction Professor Corwin contends was in the mind of the court. I have here the opinions from governors of different States—the Governor of Florida, the Governor of Missouri (Mr. Hadley), and others. Let us see what happened in the House when the amendment was here for discussion. I get these facts from Mr. Corwin's brief. Mr. Payne of New York, Mr. Underwood of Alabama, Mr. Walter Smith, Sherley of Kentucky took the same position as Governor Hughes in regard to absolute power of Congress to tax under the amendment. All of them were inclined to believe Mr. Hughes's interpretation a correct one. Governor Hughes was afterwards a Supreme Court Judge and an able man there, second to none. Afterwards he resigned from the bench. True, judges reverse themselves and courts occasionally do the same, but if Governor Hughes, after mature consideration, found that the sixteenth amendment included in its term revenues from whatever source derived, revenues from State and municipal securities then, if Judge Hughes had not resigned from the court we might well expect that one powerful opinion would be found in opposition to that of Mr. Gregg, Mr. Mills, and the constitutional opinion adopted by the committee. It is conceded that Judge Hughes did resign and that one strong member of the court was thereby lost to the country, but again I submit that until the court again emasculates the income-tax amendment as in the Macomber stock dividend case, we may hope that it will construe the sixteenth amendment to mean what it says and as found to be the law by Governor Hughes, Governor Hadley, Professor Corwin, Mr. Frierson, and other distinguished lawyers, some of whom have written me confirming my position. Mr. Mellon and his constitutional advisers receive column notices of their disagreement from these views in the New York press, but the press nor Mr. Mellon nor Mr. Gregg fortunately do not determine such matters.

The CHAIRMAN. The time of the gentleman from Wisconsin has expired.

Mr. GREEN of Iowa. I yield to the gentleman one minute more.

The CHAIRMAN. The gentleman from Wisconsin is recognized for one minute more.

Mr. FREAR. Notwithstanding all the formidable array of books, with their red ribbons by which they are tied together and the severely judicial air of those who have brought them here, I submit no one will show you any opinion which indicates that the question involved was ever decided. Obiter dicta from one judge in Gore against Evans is not law. I say it is for us to put a law before the court and say that the income from $20,000,000,000, or whatever these bonds may amount to, held by individuals, shall be subject to direct tax, the same as all other income, from whatever source derived. There is no reason for doing otherwise. A man will prefer State or municipal bonds over other securities because they are more reliable and trustworthy. They have their own preference as a security, irrespective of interest rate, and if the Federal and local governments have reciprocal rights of taxation of securities, who can be heard to complain? Twenty billion dollars now tax free would then, in part, at least, be taxable. You do not pass this proposed amendment of Judge GREEN on these securities with any idea that it is going to give relief as to bonds now issued. It does not affect the $20,000,000,000 now issued except to enhance their value in the hands of holders, but it is the best you can do until a measure like mine is adopted. I hope somebody will bring in a proposition that will reach bonds now outstanding, like I propose. I have no pride of authorship and will support any direct bill for that purpose. Let the Supreme Court overrule it if it so decides. That will be their responsibility. It is a question that has never been decided by the Supreme Court, and I submit that the American Congress has a right to demand that the matter be decided on its merits.

The CHAIRMAN. The time of the gentleman from Wisconsin has again expired.

Mr. FREAR. Mr. Chairman, I ask unanimous consent to extend my remarks in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. FREAR. At the suggestion of various Members I am placing in the RECORD the brief of Prof. Edward S. Corwin on "Constitutional tax exemption—The power of Congress to tax income from State and municipal bonds," published as a supplement to the National Municipal Review, January, 1924.

With this fairly exhaustive brief and the cases cited by Mr. Frierson, Assistant Attorney General, also printed, the real issue may be clearly understood:

CONSTITUTIONAL TAX EXEMPTION—THE POWER OF CONGRESS TO TAX INCOME FROM STATE AND MUNICIPAL BONDS.

[By Edward S. Corwin, McCormick professor of jurisprudence, Princeton University.]

What is needed is not further tinkering with the Constitution but an act of Congress assertive of its present powers.

"Aristocracy," wrote Chateaubriand, "has three stages: First, the age of force, from which it degenerates into the age of chivalry, and is finally extinguished in the age of vanity." The fact that there are between thirty and forty billions of privately held public securities in this country which are either partially or totally tax exempt (this amount includes nearly twenty-three billions of Liberty bonds of the five issues, of which the first, of two billions, so far as it has not been converted, remains totally exempt from national taxation. Capital holdings of the succeeding issues, except the Victory notes, have been exempt from the normal income tax in varying amounts, but not from the surtax; and since the expiration of the 2-year period from the ratification of the treaty with Germany even this imperfect immunity has largely lapsed. Such holdings, however, still remain beyond the reach of the taxing power of the States for the most part, but whether this fact merits consideration in this connection would depend on factors which differ with each State) suggests that American aristocracy is rapidly achieving the second stage of its predestined cycle without, perhaps, having altogether left the first stage behind. Some ingenuity has been expended in certain quarters in an effort to show that the immunity of a considerable fraction of the wealth of the country from taxation makes no particular difference to anybody; an argument which, if valid, ought to hold, even though the fraction were increased indefinitely. Certainly, when we learn that the late Mr. William Rockefeller's estate of sixty-seven millions comprised some forty millions of tax-exempt bonds, we conclude that there was a reason; and we also recall the maxim *ex nihilo nihil*. If investors in tax-exempt securities derive a benefit from this type of investment somebody else pays—the question is who?

The actual operation of tax exemption in this country would seem to be somewhat as follows: The National Government adopts a system of income taxation by which incomes are taxed at progressively higher rates. In order to escape the upper reaches of the tax, men of large income invest in tax-exempt securities, especially municipal and State bonds, the exemption of which is most nearly absolute. This in turn enables the States and municipalities to float securities on advantageous terms in comparison with private concerns. A saving is thus effected momentarily to the local taxpayer, but at his expense both as taxpayer to the National Government and as consumer. For it is apparent that if the National Government can not raise adequate revenue by progressive income taxation it must have recourse to other methods which bear more heavily on the average citizen; and it is equally evident that if private producers have to pay higher rates of interest in order to obtain adequate capital, it is the consumer who ultimately foots the bill. Nor does the advantage of the local taxpayer continue indefinitely, since the easy terms upon which they find capital procurable offers an obvious temptation to borrowing on a large scale on the part of States and municipalities. Thus, whereas State and local bonds afloat in 1913 totaled less than four billions, they now total fourteen billions, some of which, it is permissible to hold, represent expenditures which, if they should have been made at all, should have been made from current funds. So by one and the same system of tax evasion governmental extravagance is promoted, profitable business expansion is put at a disadvantage, the theory of progressive income taxation is undermined, and a tax-exempt aristocracy is created out of the wealthiest part of the community. (The market price of tax-exempt securities is such today as to tempt people of comparatively low incomes—from $20,000 to $50,000 per annum. This signifies, of course, that the very rich get their bonds cheaply, so much so, indeed, that while the income tax law pretends to levy surtaxes ranging as high as 58 per cent, the surtax above 31 per cent is virtually imperative. See Prof. R. M. Haig's article in the *North American Review* for last April. Professor Haig also makes the point that the incomes thus benefited are what Gladstone called "lazy" incomes, which thus seek safe investments, while the risk of developing new enterprises is thrust upon earned incomes. The best thought has always urged that earned incomes should be less heavily taxed than unearned.)

Not all tax exemption rests primarily on constitutional grounds. When national securities are exempt from national taxation it is only because Congress has so decreed, although once given its promise may possibly constitute a binding contract which may not be repudiated consistently with "due process of law." And the same is the case in a general way with the exemption of State and municipal securities from local taxation; such exemption rests in the first instance on the will of the local legislature, but once it is accorded it becomes a contract whose obligation may not be impaired. (Art. I, sec. 10, par. 1.) Exemptions which thus originate solely in legislative policy need not be further treated of in this article, our purpose being to investigate those doctrines of constitutional law which have been interpreted to require that exemption from taxation accompany the *issuance* of public securities. Thus, it is held that national securities are from the moment of their issuance exempt for the most part from State taxation and that State and municipal securities are likewise exempt from national taxation. The two cases, however, are not, it would appear, in all respects parallel. On the one hand, the exemption rests in both cases on judicial reasoning rather than on any specific clause of the Constitution; but, on the other hand, an important difference appears between the considerations which judges have treated as controlling in the two instances. For logical as well as chronological reasons the exemption of national securities from local taxation will be dealt with first.

I.

The judicial doctrine of tax exemption entered our constitutional jurisprudence through the famous decision in *McCulloch* v. *Maryland* (4 Wheat. 316), in which in 1819 the Supreme Court set aside a tax by the State of Maryland on certain operations of a local branch of the Bank of the United States. The opinion of the court by Chief Justice Marshall brings forward at least four distinct, even though not clearly distinguished, grounds for the decision. In a phrase often quoted since, the Chief Justice defines the power to tax as involving "the power to destroy."

The inference is that the mere attempt to tax the bank represented a claim on Maryland's part to control or even to wipe out an instrumentality of a government which is supreme within its assigned sphere. But more than that, the opinion continues, while "the sovereignty of a State extends to everything which exists by its own authority or is introduced by its permission," the bank did not fall within this description. So, regardless of the supremacy of the National Government, there was "on just theory" a "total failure" of power in the State to reach the bank through taxation. Nevertheless, at the very end of his opinion Marshall concedes Maryland the right to tax the bank on its "real property * * * in common with other real property within the State," and also "the interest which the citizens of Maryland" held in the institution "in common with other property of the same description throughout the State"; and meantime he has answered an argument drawn by the State's attorneys from the

Federalist with this observation: "The objections to the Constitution which are noticed in these numbers were to the undefined power of the Government to tax, not to *the incidental privilege of exempting its own measures from State taxation.*" [The italics do not occur in the original.] In other words, the exemption of the bank is thought of at this point as resting on the implied will of Congress, and therefore to be justified constitutionally as a measure "necessary and proper" for maintaining the full efficiency of the bank as an instrumentality of admitted national powers. In short, while the exemption of the bank from State taxation on its operations was clear, the precise reason for exemption was far from clear. This may have been due to the inherent scope of the taxing power, considered in relation to the supremacy of the National Government within its proper field; or it may have been due to the inherent limits of the State's own sovereignty; or it may have been due to the discriminatory nature of the tax attempted in this instance, or, finally, to the implied will of Congress.

The question arises whether there is a necessary contradiction as between any two of these grounds of decision, or whether they may be considered as together constituting a harmonious whole. The strongest appearance of contradiction emerges from a comparison of the first and third grounds, for if the equal application of a tax to a species of property is guarantee against its abuse why the proposition that "the power to tax involves the power to destroy"? And why should not any generally imposed tax be valid as to all property within the limits of a State? The answer seems to be that Marshall was trying to draw the line between the *bona fide* taxation by a State of *property* within its limits and an attempt by it to tax an *exercise* of national power within those limits; the former being allowable, the latter not. Yet why not? And here our attention is drawn to the juxtaposition of the first and fourth grounds of decision. Taken together the two grounds spell out the proposition that Congress may always exempt instrumentalities of the National Government from local taxation when it is "necessary and proper" for it to do so in order to assure the efficient operation of such instrumentalities. What then of the converse proposition, that where an exemption of national agency from State taxation exists such exemption is to be deemed as resting in the first instance merely on the will of Congress, express or implied, and not on constitutional consideration beyond the reach of Congress? The fact is that no clear answer to this question can be gleaned from Marshall's decisions. In *Osborn* v. *The Bank*, he treats the exemption as resting on the will of Congress (9 Wheat. 738. Marshall's language here is as follows: "The court adheres to its decision in the case of *McCulloch* v. *The State of Maryland*, and is of opinion that the act of the State of Ohio, which is certainly much more objectionable than that of the State of Maryland, is repugnant to *a law of the United States made in pursuance of the Constitution, and therefore void*" [the italics do not appear in the original].); in *Weston* v. *Charleston*, as implied in the Constitution (2 Pet. 449); and subsequent decisions of the court disclose the same uncertainty. (See *Van Allen* v. *Assessors*, 3 Wall. 573, in which was sustained the act of June 3, 1864 (now par. 5219 of the Rev. Stats.), whereby certain powers of taxation with reference to national banks were accorded the States; *Thomson* v. *Union Pacific R. R. Co.*, 9 Wall. 579; *Union Pacific R. R. Co.* v. *Peniston*, 18 Wall. 5; *Owensboro National Bank* v. *City of Owensboro*, 173 U. S. 664; *Home Savings Bank* v. *Des Moines*, 205 U. S. 503. In the last case J. Moody, speaking for the court, remarks: "It may well be doubted whether Congress has the power to confer upon the State the right to tax obligations of the United States. However this may be, Congress has never yet attempted to confer such a right." So the point has never been decided. In *Chaplin* v. *Commissioner*, 12 Com. L. R. 375 (Australia, 1911), the Commonwealth was held to have the power to authorize State taxation of Federal salaries, although such taxation had been previously held invalid without such authorization. Hall, *Cases on Constitutional Law*, p. 1288 ff. See also note 13 *infra*. If a citizen of one State owns bonds of another State, his own State may levy a tax thereon, as on other personal property the situs of which follows the owner. *Bonaparte* v. *Appeal Tax Court*, 104 U. S. 592. In other words, as between States, privately held public securities of State origin are treated as private property solely.) Indeed, even when the will of Congress is made the basis of exemption there is still uncertainty as to whether taxation may be permitted in the silence of Congress, or the implication of silence should be construed unfavorably to the State's claims. (Notes 6 and 8, *supra*.) It is submitted, however, that there is no sound reason why these uncertainties should be permitted to continue. With the remedy for any abuse by a State of its power over instrumentalities of the National Government securely lodged in Congress, there is not the least benefit to be anticipated from the Supreme Court's troubling itself with the extent of Congress's concessions to the States in respect of the taxation of national instrumentalities. Such instrumentalities ought always to be subject to local taxation when they take the form of private property, while any effort of the local taxing power to single them out for special burdens would be void on the face of it. Both of which propositions are fairly implied in *McCulloch* v. *Maryland*. (See also the recently decided case of *First National Bank of San Jose* v. *California*, decided June 4 last, and cases there cited, to show that the "dealings of national banks are subject to the operation of general and undiscriminating State laws which do not conflict with the letter or general object or purpose of congressional legislation affecting such banks.")

II.

We now turn to that branch of the constitutional doctrine of tax exemption which restrains the national taxing power in relation to "means and instruments" of the States. At the outset we note an important difference in the operation of the doctrine in the two fields. The principal local taxing power which is caught in the coils of this doctrine is the power of taxing property directly; in other words, the general property tax, which is thereby disabled in the presence of private property which is viewable from another angle as still discharging a governmental function.

The National Government, on the other hand, is, practically speaking, denied the power of directly taxing property by the unworkable rule of apportionment which the Constitution lays down for such taxes. (Art. I, sec. 2, par. 3; sec. 9, par. 4.) The only kind of national taxation which is affected by the constitutional doctrine under review is consequently income taxation, which, whether it be "direct" or "indirect" in the constitutional sense, is to-day relieved by the sixteenth amendment from the rule of apportionment; and the principal operation of the doctrine of tax exemption within the national field has been accordingly to relieve certain categories of *incomes* from national taxation, namely, those derived from State and municipal bonds and State official salaries. By the same token, the extension of the doctrine of tax exemption into the field of national taxation incurs difficulties which it does not encounter in the other field. Both on the basis of what has just been said and for other reasons which will be manifest these may be set down as follows: In the first place, in the case of the average property holder or income taker the burden represented by the general property tax is far greater than the burden of any probable income tax. To illustrate: A tax on income derived from a bond bearing interest at 4 per cent would have to be 25 per cent in order to equal in burden a 1 per cent property tax on the bond itself; but while the latter is a burden which any citizen may be called upon by the State to meet, the former is one exacted by the National Government only of the wealthiest classes and is therefore one evasion of which is rendered possible and profitable only to the wealthy through the operation of the doctrine. In the second place, while it is not so unreasonable to regard a Government bond even in the hands of the private purchaser as still an instrumentality of government, since it represents a continuing relationship between the Government and the purchaser, to extend the same line of reasoning to income from the bond, the payment and receipt of which is a transaction over and done with once for all, involves a step by no means easy to follow. (A similar distinction is developed by Marshall in *Weston* v. *Charleston*, supra, between State taxation of United States bonds and lands sold by the United States: "When lands are sold no connection remains between the purchaser and the Government. The lands purchased become a part of the mass of property in the country with no implied exemption from common burdens. * * * Lands sold are in the condition of money borrowed and repaid. Its liability to taxation in any form it may then assume is not questioned. The connection between the borrower and the lender is dissolved.") In the third place, the difference between the National Government as the government of all and any particular State as the government of only a section of the people should be taken into account in this connection. As Chief Justice Marshall pointed out in *McCulloch* v. *Maryland*, "The people of all the States and the States themselves are represented in Congress," which, therefore, when it taxes a State institution is still taxing only its own constituents, whereas "when a State taxes the operations of the Government of the United States it acts upon institutions created" by people not represented in the State legislative chambers. Finally, whereas the principle of national supremacy to which, as we have seen, the exemption of national means and instruments from State taxation was principally referred by Marshall, is a principle definitely embodied in the written Constitution (Art. VI, par. 2), the theory upon which the doctrine of tax exemption was projected into the national field rests entirely upon principles external to the written Constitution and, indeed, is logically contradictory of the principle of national supremacy.

The doctrine of tax exemption was first applied in restriction of the national power in 1871, in the case of *Collector* v. *Day* (11 Wall. 113; the decision was preceded by that in *Dobbins* v. *Commissioners*, 16 Pet. 435, in which the court held the salaries of United States officials to be nontaxable by the States, on the ground that the immunity was *implied by the act of Congress fixing such salaries*), in which the sole question was whether a general income tax levied uniformly throughout the country could be exacted of a State judge on his official salary. Justice Nelson, speaking for the majority of the court, answered this question in the negative on the following line of reasoning: (1) That a judiciary was a requisite of that "republican form of government"

which the United States was pledged by the Constitution to maintain in every State; (2) that "the power to tax involved the power to destroy"; (3) that the tax invaded the field reserved to the States by the tenth amendment. Rendered as it was near the close of the reconstruction period, during which Congress had ridden roughshod over the most sacred pretensions of "State sovereignty," the decision is easily explicable, especially when we bear in mind the constant solicitation to which the Supreme Court is always exposed to adopt the rôle of "savior of society"; but these are circumstances which can hardly justify the decision as a rule of law. Would it ever occur to "most people not lawyers" (the expression is Justice Holmes's; see 252 U. S. 220) that the republican form of government connotes the elevation of an official class above the common burdens of citizenship? Nor does the maxim that "the power to tax involves the power to destroy" seem particularly applicable to a situation in which its realization would carry with it the destruction of everybody's income. But not only was the court's invocation of the guaranty of a republican form of government extravagantly irrelevant to the actual facts before it, it was also technically unallowable, for the court has said repeatedly that it is not for itself but for Congress to say what are the requisites of such a government, that this is "a political question." (*Luther* v. *Borden*, 7 How. 1; *Pacific States T. & T. Co.* v. *Oregon*, 223 U. S. 118.)

Justice Nelson's chief reliance, however, is upon "the reserved rights" of the States, recognized in the tenth amendment; but it does not seem on the whole to be better placed than on the other arguments just reviewed. He contends, in brief, that the right to establish and maintain a judicial department is an "original," "inherent," "reserved" power of a State, "never parted with, and as to which the supremacy" of the National Government "does not exist," that "in respect to the reserved powers, the State is as sovereign and independent as the General Government." Virginia had made the same argument half a century earlier and with much better reason in *Cohens* v. *Virginia* (6 Wheat. 264; see also Justice Story's opinion in *Martin* v. *Hunter's Lessee*, 1 Wheat. 304) and had been answered that as to the purposes of the Union the States are not sovereign but subordinate. Moreover, if the supremacy of the National Government does not exist as to the reserved powers of the States, as to what powers does it exist? Modern constitutional law certainly lends Justice Nelson's logic small support. For if the reserved power of a State to establish courts can prevent the incidental operation of an otherwise constitutional tax of the National Government, what is to be said of a tax levied upon a privilege granted by the State in the exercise also of powers indubitably reserved to it (*Flint* v. *Stone Tracy Co.*, 220 U. S. 107, sustaining a tax measured by net profits on the privilege of doing business as a corporation); or of a direct invasion of the reserved power of a State in the regulation of local transportation? (The *Shreveport Case*, 234 U. S. 342; *Railroad Commission* v. *C., B. & Q. Co.*, 257 U. S. 563.)

Yet both these assertions of national power have been sustained within recent years. Furthermore, even though it be conceded that the power to maintain a judiciary is a reserved power of so peculiarly sacrosanct a character as to set limits to the operation of otherwise constitutional acts of the National Government, yet it would remain to be shown that this reserved power comprised the further power of rendering immune from national taxation the salaries paid the State's judges and already in their pockets. Recent decisions do not tend to support such far-fetched theories of the incidence of taxation (a tax on income two-thirds of which was derived from export trade is valid, notwithstanding the constitutional prohibition of a tax on "articles exported from any State" (Article I, sec. 9, par. 5), *Peck & Co.* v. *Lowe*, 247 U. S. 165; also, a tax by a State on the profits of a company though these were derived in large part from interstate commerce, *United States Glue Co.* v. *Oak Creek*, *ibid.* 321; also, State and municipal bonds held by a decedent may be validly included in the net value of an estate upon the transfer of which the estate tax imposed by the act of September 8, 1916, is assessed, *Greiner* v. *Lewellyn*, 258 U. S. 384. Finally, by *New York* v. *Law*, decided April 30 last, a tax on the income from a mortgage is not a tax on the mortgage itself within the sense of *a law exempting the mortgage from taxation*)—far-fetched and, as Doctor Johnson would have added, "not worth the fetching." For all which reasons the doctrine of *Collector* v. *Day* must to-day be regarded as obsolete; and the same, of course, must also be said of the extension of that doctrine in *Pollock* v. *The Farmers' Loan & Trust Co.* (157 U. S. 429; 158 U. S. 601) to incomes from State and municipal bonds. A special tax on such incomes would fail for vicious classification (see the dicta in *Brushaber* v. *Union Pacific R. R. Co.*, 240 U. S. 1; *Bell's Gap R. R. Co.* v. *Penna.* 134 U. S. 232; *Connolly* v. *Union Sewer Pipe Co.*, 184 U. S. 540; and other cases) perhaps as not a tax at all (*Bailey* v. *Drexel Furniture Co.*, 259 U. S. 20; *Hill* v. *Wallace*, *ibid.* 44); but an otherwise constitutional tax can not in logic or common sense be denied operation upon such incomes; and this would be so even if the sixteenth amendment had never become a part of the Constitution.

III.

The sixteenth amendment reads as follows:

"The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration."

It is well understood that the purpose of this amendment was to overcome in whole or in part the effect of the Supreme Court's decision in *Pollock* v. *The Farmers' Loan & Trust Co.* (see note 20, *supra*, but whether in whole or in part only is disputed. In this case the Supreme Court ruled: First, that incomes derived from property were "direct taxes" and leviable only by the method of apportionment; and secondly, as we have just noted, that incomes derived from State and municipal bonds were not subject to national taxation at all. The question with which we are concerned, therefore, is this: Does the sixteenth amendment overthrow both branches of this decision or only the first? Or to put the issue a little more definitely: What is the force and effect of the phrase "from whatever source derived" in this context? Does it permit Congress to tax all kinds of income without resort to apportionment, or does it merely permit Congress to tax without resort to apportionment such incomes as were previously subject to national taxation?

Anterior to *Evans* v. *Gore* (253 U. S. 245), which was decided four years ago and which receives special consideration further along in this paper, the court, or justices speaking for it, had uttered a number of dicta which have been assumed to sustain the narrower view of the amendment. Thus in *Brushaber* v. *Union Pacific R. R. Co.* (see note 21, *supra*), which was decided shortly after the amendment was added to the Constitution, we find Chief Justice White declaring that "the whole purpose of the amendment was to relieve all income taxes when imposed from apportionment from a consideration of the source whence the income was derived"—a view of the matter which he asserts shortly afterwards to have been "settled" by the previous utterance. (*The Baltic Mining Co.* v. *Stanton*, 240 U. S. 103.) And to the same effect is the language of Justice Pitney in the Stock Dividend case. (*Eisner* v. *Macomber*, 252 U. S. 189.) "As repeatedly held, this—the sixteenth amendment—did not extend the taxing power to new subjects, but merely removed the necessity which otherwise might exist for an apportionment among the States of taxes laid on income." This was a five-to-four decision, but meantime, in *Peck & Co.* v. *Lowe* (cited in note 19, *supra*), Justice Van Devanter, speaking for a unanimous court, had reiterated the same proposition.

But now just what is this proposition? The present writer submits that it is neither more nor less than the *statement, evident on the face of it, that the sixteenth amendment does not authorize Congress to tax without apportionment anything except incomes.* Let it be considered what were the precise questions before the court in the two more important of these cases. In the Brushaber case it was whether an income which had accrued since March 1, 1913, could be reached retroactively by a tax enacted the subsequent August, it being contended that the income had now become capital; while in the stock dividend case the question was whether such a dividend was to be regarded as income in the hands of stockholders or merely as evidence of capital holding. The former question was answered adversely to the taxpayer concerned, the latter favorably; but in both instances it was obviously proper for the court to clarify its position by stating the self-evident proposition offered above. (*The Peck & Co.* v. *Lowe* and *Baltic Mining Co.* v. *Stanton*, as in the Brushaber case, the exertion of the national taxing power questioned was sustained independently of the sixteenth amendment.)

On the other hand, interpret the statements above quoted as signifying that the amendment still leaves outstanding certain limitations on Congress's power of *income* taxation, and what results? This, at least: That the Supreme Court is chargeable with having "settled" by the mere process of heaping *obiter dictum* upon *obiter dictum* a most important question of constitutional power, which was not remotely involved in the cases before it, on which, so far as the published briefs of attorneys show, there was no argument worthy of mention, and in justification of its determination of which it condescended to utter not one word of proof, whether of law or of fact.

That the Supreme Court has no authority "to pass abstract opinions upon the constitutionality of acts of Congress" has been repeatedly stated by the court itself (see Justice Sutherland's opinion in *Massachusetts* v. *Mellon*, decided June 4 last, and cases there cited); that it has no right to anticipate action by Congress by affixing to the Constitution a reading thereof not required in the determination of any question before it would seem to be even clearer. Respect for the court, if nothing else, forbids our attributing to it the intention of prejudging the interpretation of the sixteenth amendment unnecessarily. Instead, we should recall the maxim stated by Chief Justice Marshall and reiterated many times since: "It is a maxim not to be disregarded that general expressions in every opinion are to be taken in connection with the case in which those expressions are used. If they go beyond the case they may be respected, but ought not to control

the judgment in a subsequent suit when the very point is presented for decision." (*Cohens* v. *Virginia*, cited note 16, *supra*.)

But it is insisted that in *Evans* v. *Gore* (cited in note 24, *supra*), which followed the cases just reviewed, "the very point" here under consideration was presented and decided. Is this so? The principal holding of that case was that a United States judge could not, consistently with the provision in Article III of the Constitution; that judges of the United States shall at stated times receive for their services a compensation "which shall not be diminished during their continuance in office," be subjected to a national income tax in respect of his official salary. Confronted with the argument that the sixteenth amendment must be deemed to have authorized such taxation, notwithstanding the language of Article II, the majority, speaking through Justice Van Devanter, said:

"The purpose of the amendment was to eliminate all occasion for such an apportionment because of the source from which the income came—a change in no wise affecting the power to tax, but only the mode of exercising it. The message of the President recommending the adoption by Congress of a joint resolution proposing the amendment, the debates on the resolution by which it was proposed, and the public appeals—corresponding to those in the Federalist—made to secure its ratification, leave no doubt on this point. * * *

"True, Governor Hughes, of New York, in a message laying the amendment before the legislature of that State for ratification or rejection, expressed some apprehension lest it might be construed as extending the taxing power to income not taxable before; but his message promptly brought forth from statesmen who participated in proposing the amendment such convincing expositions of its purpose, as here stated, that the apprehension was effectively dispelled and ratification followed.

"Thus the genesis and words of the amendment unite in showing that it does not extend the taxing power to new or excepted subjects, but merely removes all occasion otherwise existing for an apportionment among the States of taxes laid on income, whether derived from one sources or another."

That these words would have been regarded by the court when it uttered them as concluding the question under discussion in this paper may well be believed. Also, it must be said in fairness to the court that the conclusions stated by Justice Van Devanter rest to some extent on a consideration of the question of the scope of the amendment in the light both of fact and of argument. Nevertheless, I venture to challenge the conclusiveness of the facts brought forward by the court, and also of the assumption, which I am willing to attribute to it, that the question before it involved the broader question of the status, in relation to the amendment, of incomes from State and municipal bonds and of the salaries of State officials; and let us first take up the question of fact.

IV.

As its citations go to prove, the court's chief reliance is upon arguments which were made by Senators Root and BORAH after the amendment had been proposed by Congress but before its ratification. On the other side, the court admits the contrary opinion of Mr. Hughes, then Governor of New York, whose utterance, however, was but one of several of like tenor, as the following quotations show:

"It is to be borne in mind that this is not a mere statute to be construed in the light of constitutional restrictions, express or implied, but a proposed amendment to the Constitution itself, which, if ratified, will be in effect a grant to the Federal Government of the power which it defines. The comprehensive words 'from whatever source derived,' if taken in their natural sense, would include not only incomes from real and personal property, but also incomes derived from State and municipal securities." (Governor Hughes, of New York.)

"Congress could, therefore, tax incomes from State and municipal bonds and could exempt incomes so derived. Senators and Congressmen, being necessarily residents of the States and generally of the municipalities, would not pass a law which would destroy through taxation the credit of their own State and their own municipality." (Governor Gilchrist, of Florida.)

"The objection urged by Governor Hughes does not impress me as being a very substantial or effective one. If it is advisable, upon broad grounds of public policy, for the National Government to subject incomes to taxation, it impresses me as a narrow or technical objection to oppose this amendment for the reason that it does not provide for an exemption of that portion of one's income derived from interest upon State and municipal bonds." (Governor Hadley, of Missouri.)

"The income-tax amendment to the Constitution is broad enough to include a tax on incomes derived from the ownership of State and municipal bonds." (Governor Burke, of North Dakota.)

"The language of the amendment is very broad, and injustice might easily occur unless Congress should be careful in the exercise of the authority conferred upon Congress by this amendment." (Governor Haskell, of Oklahoma.)

"Indeed, it seems to me that if the words "from whatever source derived" would leave the amendment ambiguous as to its power to tax incomes from official salaries and from bonds of States and municipalities, the amendment ought to be opposed by whoever adheres to the democratic maxim of equality of laws, equality of privileges, and equality of burdens. * * * It is impossible to conceive of any proposition more unfair and more antagonistic to the American idea of equality and the democratic principle of opposition to privilege than an income tax so levied that it would divide the people of the United States into two classes." (Governor Dix, of New York, in his message to the speaker urging him to press the amendment.)

Here, in short, are six gubernatorial utterances made, some in protest against the amendment, some in its favor, but all to the same effect—that the amendment would vest Congress with the power to tax incomes from State and municipal bonds—while I have encountered but a single utterance from a like source which is clearly to the contrary effect. Yet, despite these warnings, following these commendations, the amendment was ratified. And in this connection it should be noted that ratification by the pivotal State of New York followed upon the Dix message, not upon the attempted refutation of Governor Hughes. (Of the foregoing quotations, the first five are taken from the *New York Times* and *New York World* of January 7, 1910. The last is from the *Dix Papers* (1911), pp. 533–541. The single hostile utterance referred to was that of Governor Noel, of Mississippi (*Times*, January 6). Governor Harmon, of Ohio, was content to leave the question to Congress, whose members would never "pass a law that would cripple or destroy their States," *ibid*. Governor Weeks, of Connecticut, who was opposed to the amendment, congratulated Governor Hughes "upon the tone of his message" (*Times*, January 8). Governor Vessey, of South Dakota, is put down as agreeing with Governor Hughes in the *Literary Digest* of January 15, p. 88. Senator Brown, author of the amendment, declared on the floor of the senate that "Alabama, Ohio, Virginia, New Jersey, and other States have governors who not only favor conferring the power but favor the proposed amendment, which, if adopted, confers the power." (*Congressional Record*, vol. 45, p. 2245.) For many of these data I am indebted to Mr. Robert A. Mackay, proctor fellow in politics, Princeton University.)

But let us consider the evidence which Justice Van Devanter adduces as to the intention of Congress itself in proposing the amendment. (The evidence will be found in the following pages of the CONGRESSIONAL RECORD: Vol. 44, pp. 1568–1570, 3344–3345 (President Taft's message), 3376, 3900, 4067, 4105–4121, 4389–4441; vol. 45, pp. 1694–1699 (Mr. BORAH'S speech), 2245–2247 (Senator Brown's views), 2539–2540 (Senator Root's letter to Mr. Davenport, of the New York Senate). He first refers to President Taft's message of June 16, 1909, urging an amendment to the Constitution which should confer "the power to levy an income tax without apportionment among the States in proportion to population." This clearly shows that the object which was foremost in the President's mind was to get rid of the rule of apportionment in income taxation; but clearly, too, it throws no light on the question of the proper construction of the very differently worded proposal which was finally adopted. In Congress the ball was started rolling by Senator Brown, of Nebraska, the day following the message. In its original form his proposal gave Congress "power to lay and collect direct taxes on incomes without apportionment"; but when it emerged from the Senate Finance Committee 11 days later it had assumed the shape of the present amendment. Why the change? It would perhaps be difficult to say; but the burden of explaining the change is certainly not on those who contend that it must have had some significance. Nor does the trend of the discussion leading up to the passage of the amendment in either the Senate or the House strengthen the case for tax exemption. For the most part this dealt with political and historical matter which has no bearing on the present question; but it was interlarded with repeated references to the desirability of clothing the National Government with the power to tax incomes effectively, both from the point of view of providing for possible emergencies and also from that of equitable taxation.

The resolution of proposal having been passed by the Senate by a vote of 77 to 0, then went to the House, where it was voted by an overwhelming majority on July 28, and thereupon went to the States, with the result that Congress now lost all control over it. Notwithstanding this, when nearly six months later Governor Hughes sent his message to the New York Assembly criticizing the proposal, Senator BORAH introduced a resolution asking the Senate Committee on the Judiciary to report on the soundness of the governor's views and meantime proceeded to develop his own theory. In brief, his argument was this: It could not be the purpose of the clause "from whatever source derived" to vest Congress with additional powers of taxation, since that power was already plenary. The argument is self-contradictory; for if its power of taxation was really plenary, what additional power of the kind was there with which to vest Congress? But as an assertion of fact the statement is merely preposterous, being "so far from the truth"—to borrow an expression of Mr. Chesterton's—"as to be exactly the opposite to it." How, then, is such an absurd statement in the mouth of a reputable public man to be explained? One explanation is to be found in Mr. BORAH'S quotation of a number of judicial dicta also asserting the plenitude of Congress's power in respect of taxation. It does not seem to have occurred to him to notice that these dicta take their rise from a period long antecedent

to *Collector* v. *Day* and *Pollock* v. *The Farmers' Loan and Trust Company*, the decisions in which they thus directly impugn. (The original source of the doctrine of the plenitude of Congress's power of taxation is *Hylton* v. *U. S.*, 3 Dall. 171 (1796). See also *Pac. Ins. Co.* v. *Soule*, 7 Wall. 433. The reiteration of the same doctrine in the Pollock case, which is obviously to be taken in the Pickwickian sense, is to be accounted for by the anxiety of the court to demonstrate that it was not depriving Congress of the power of income taxation by its holding that a tax on incomes from property was "direct." See Mr. Hubbard's telling criticism in his article on "The sixteenth amendment" in the *Harvard Law Review*, vol. 33, pp. 794–812.) Nor is his invocation of certain principles of "constitutional construction" pertinent unless he means to imply that these are beyond the reach of constitutional amendment; since, unlike the original grant of power to Congress "to lay and collect taxes," the sixteenth amendment does not employ general terms, but words which are most nicely adjusted to the legal problem to be met—a point which will become clear in a moment.

First and last of the more than 400 Members of Congress who voted to propose the sixteenth amendment I have had brought to my notice utterances of just 8 dealing with Governor Hughes's message. Senators Borah, Bailey, and Root dissented from the message, principally on the argument just examined. Senator Brown, of Nebraska, the reputed author of the amendment, "agreed" with Mr. BORAH but was "willing to assume the contrary." Pointing out that no proposals had come to Congress from any State calling for a modified proposal in consequence of Governor Hughes's message, he said: "It does not follow that the amendment should be rejected; on the contrary, it follows that it should be ratified, because under that interpretation all the incomes would be treated alike." That "the man whose income arises from investments in State and municipal bonds should be exempt from the income tax," he continued, was, "on the face of it," a proposition which did not commend itself. "It does not square with the doctrine of equal rights. It is hateful to every sense of justice. It can not be defended in principle, nor can it be used successfully, in my judgment, to defeat the amendment." In short, Governor Hughes's view ought to be the correct one, whether it was or not, and was calculated furthermore to promote the ratification of the amendment. The House Members referred to are on record only in press inteviews. They are Mr. Payne, of New York, who as chairman of the Ways and Means Committee introduced the amendment into the House; Mr. Underwood, of Alabama, leading Democratic member of the same committee; Mr. Walter Smith, of Iowa; and Mr. Sherley, of Kentucky. All of them were inclined to think Mr. Hughes's interpretation the correct one, and that it was probably a good thing that such was the case. Does Justice Van Devanter really think that this evidence supports his conclusions as to the interpretation of the sixteenth amendment? (The *N. Y. World*, January 7, 1910.)

V.

However, the question is not one of fact alone, but of mixed law and fact, so to say. Thus it is a maxim which has been frequently applied by the court, that the Constitution does not contain useless language. (See *the Constitution of the. U S. Annotated*, George Gordon Payne, editor; Government Printing Office, 1923; at pages 45–46 and in cases there cited. The rule is directly applied in *Calder* v. *Bull*, 3 Dall. 386; and in a number of cases in which the term "due process of law" of the fifth amendment is compared with the same clause of the fourteenth amendment. See *Davidson* v. *N. O.*, 96 U. S. 97; *Hurtado* v. *Calif.*, 110 U. S. 516; etc.) But unless the phrase "from whatever source derived" has the operation which Mr. Hughes claimed for it, what operation does it have?

Mr. Root sought to meet this difficulty by urging that the phrase in question was "introduced" in order to make it clear that incomes from property as well as those from personal service were meant to be covered by the amendment. The answer is obvious. The decision in the Pollock case admits Congress's right to tax the latter kind of incomes without apportionment; so Mr. Root's contention boils down to the proposition that notwithstanding its historical relation to the Pollock case the amendment might have had no effect at all—might have been a work of supererogation—had not the phrase "from whatever source derived" been written into it!

A second suggested purpose of the clause may be disposed of just as summarily. This is to be found in Chief Justice White's opinion in the Brushaber case and consists in the theory that it was the purpose of the amendment to classify all taxes on incomes as "indirect" by forbidding consideration of the source from which the incomes are derived. Unquestionably the amendment does forbid the consideration of the source of incomes in connection with their taxation; indeed, as we shall note in a moment, this is a fact of first importance in determining the amendment's true operation. But the notion that the amendment classifies all income taxes as "indirect" in the constitutional sense must to-day, in the light of what was said in *Eisner* v. *Macomber*, be abandoned; for it is there clearly implied that taxes on incomes derived from property are still to be considered as "direct," although the necessity for their apportionment is now at an end. (Chief Justice White offers no proof of his singular theory of the purpose of the clause, and his argument for his position involves the admission that the decision in the Pollock case was usurpation of power by the court.)

The single application of the phrase that remains is, then, its literal application—the sixteenth amendment says that Congress may tax incomes "from whatever source derived," and it means it! The phrase, moreover, was admirably chosen to strike at the very roots of the entire theory of tax exemption, which is that *because of their source* certain incomes ought to be considered not as private property but as instrumentalities of government. Henceforward such theories are to be discarded, and Congress's power of income taxation is to be defined without regard to the source from which incomes are drawn. In this sense, indeed, the amendment does not *extend* Congress's power of income taxation; it restores it to its original dimensions, and not by direct regrant but by leveling to its foundations the whole judicially fabricated structure of tax exemption.

But the case for this reading of the sixteenth amendment is still stronger when it is brought into touch with another acknowledged canon of constitutional interpretation. This is the one wherewith Chief Justice Marshall answered the argument in the Dartmouth College case (4 Wheat. 518) that the word "contracts" as used in Article I, section 10, of the Constitution, was not intended to embrace the charters of private eleemosynary institutions: "It is not enough to say that this particular case was not in the minds of the convention when the article was framed, nor of the American people when it was adopted. It is necessary to go further and to say that had this particular case been suggested the language would have been so varied as to exclude it, or it would have been made a special exception. The case, being within the words of the rule, must be within its literal operation likewise, unless there be something so obviously absurd or mischievous or repugnant to the general spirit of the instrument as to justify those who expound the Constitution in making it an exception." This maxim has been repeatedly sanctioned by the court, twice in recent cases. (*Ozawa* v. *United States*, 260 U. S. 178; *United States* v. *Bhagat Singh Thind*, decided February 19, last.) Can it be said that there is any such absurdity or repugnancy to the literal rendering of the sixteenth amendment as to exclude it from the rule just stated? It has already been shown on how frail a foundation the doctrine of tax exemption rests, especially as applied to income taxation, and also how this doctrine operates to defeat what is universally acknowledged to have been a controlling purpose of the sixteenth amendment, to wit, a more equitable distribution of the burden of taxation.

Yet all this is on the assumption that the intention of those who framed and ratified the sixteenth amendment is a consideration which is material to its interpretation. There is, however, a third maximum of constitutional interpretation which renders this assumption extremely doubtful. The point is that the words "from whatever source derived" are so clear in themselves when not approached with preconceptions drawn from the outside that, in the words of Chief Justice Marshall in a similar case, they "neither require nor admit of elucidation." (*Wayman* v. *Southard*, 10 Wheat. 1.) The court has repeatedly said that "the construction and application of a provision are not restricted by and to the purpose of its adoption" (*Constitution of the United States Annotated*. (See note 37, *supra*), p. 42, and cases there cited); that "it can not be inferred from extrinsic circumstances that a case for which the words provide shall be exempted from its operation" (*Op. cit.*, p. 45, and cases there cited); that—with specific reference to the "commerce" clause—"the reasons which may have caused the framers of the Constitution to repose this power * * * in Congress do not * * * affect or limit the extent of the power itself." (*Addystone Pipe & Steel Co.* v. *United States*, 175 U. S. 211. *See* also *Gibbons* v. *Ogden*, 9 Wheat. 1, and *Chisholm* v. *Georgia*, 2 Dall. 419.) In short, the rule would seem to be that when the literal meaning of a constitutional provision is clear, it is not the speculative intention of the authors of the provision but the text itself which governs: and it is submitted that his rule is applicable in the present instance. No more precise wording could have been chosen to convey the power contended for in this paper, while contrariwise it is in the interest of a *restrictive* application of the words of the amendment *only* that the problem of their interpretation has been created, as it were, out of the whole cloth. It is truly a case where the interpretative process is resorted to "not to remove an obscurity, but to import one." (Justice Sutherland, in *Russell Motor Car Co.* v. *U. S.*, decided April 9 last. The opinion cites several cases forbidding resort by a court to legislative debates for extrinsic aid in interpreting a statute: *Lapina* v. *Williams*, 232 U. S. 78, 90; *Omaha & C. B. Street R. Co.* v. *I. C. Com's'n*, 230 U. S. 324, 333; *Standard Oil Co.* v. *U. S.*, 221 U. S. 1, 50; *United States* v. *Trans-Mo. Frt. Asso.*, 166 U. S. 290, 318. The objections to invoking a supposed "intention" of the legislator as interpretative of the law are admirably stated by Malberg, *Contributions à la Theorie Générale de l'Etat* (1920), I, sec. 237. "In order that the will of the legislator become law, it must take form in an official text adopted in solemn form. * * * That procedure which consists in imputing intentions to the legislator by taking account of the state of mind, the customs, the circumstances which

prevailed at the period of the making of the law can furnish interpretation only very vague data. * * * The text alone has the authoritative validity of the law," *ibid.* The objections against resort to extrinsic aids are, of course, vastly multiplied in the case of an amendment to the Constitution of the United States, which becomes law only after proposal by two-thirds of each House of Congress and the favorable vote of three-fourths of the State legislatures. To rely upon the views of not more than four men, as Justice Van Devanter does, as expressive of the "intentions" of this far-flung legislative organ would of itself be ridiculous, even if their utterances were not more than offset by contrary evidence, which, however, is clearly the case.)

VI.

We now return to the second point raised above with respect to the decision in *Evans* v. *Gore* (see note 24, *supra*), namely, whether it involves the broader question of the status, in relation to the sixteenth amendment, of incomes from State and municipal bonds and the salaries of State officials. The point of view, however, from which this query is put should be made clear. There is no anxiety to preserve the decision in *Evans* v. *Gore*, which fully as much as *Collector* v. *Day* (cited in note 13, *supra*) illustrates what curious results the judicial mind can sometimes achieve when it chooses to let itself go. The proposition for which *Evans* v. *Gore* stands is that a certain category of national judges should not be required to pay on their salaries the same taxes to the National Government as other people would on a like income, although they receive the same protection from the Government; that while as to ordinary incomes a payment of taxes is a use thereof, as to certain judicial salaries it is a forced surrender, a confiscation. But if to collect a general income tax on the salary of a judge in office when the tax was enacted is to diminish such salary in the sense forbidden by Article III, then to repeal or even to reduce an income tax reaching the salary of a President in office would be to increase such salary contrary to Article II, and, furthermore, to repeal or to reduce the tax as to any part of the income of the President in such a case would be another "emolument from the United States," also forbidden by Article II. In other words, as to everybody else in the country an income tax can be repealed or reduced at any time, but as to a President taking office under the act it must be collected to the end of his term and not only on his salary but on all his income and at the same rate. Furthermore, in failing to note any distinction between a discriminatory and nondiscriminatory taxation of judicial salaries the decision actually exposes the salaries of future judicial incumbents to special exactions. For while the "judicial independence" of judges in office at any particular time is bulwarked behind this decision, that of judges to be is still left to the mercy of Congress and their own fortitude.

But while this decision, for the reason stated, can hardly claim our applause, it is nevertheless, until it is set aside by the court, a fact to be reckoned with, and so the question of its scope becomes one of importance. The precise inquiry is, therefore, whether the question decided in *Evans* v. *Gore* can be distinguished logically from the question which would be raised by the application of a national income tax to incomes from State and municipal bonds and to State official salaries. I submit that it can be, for two reasons: In the first place, while the decision in *Evans* v. *Gore* is based on a clause of the written Constitution, no such clause can be invoked in behalf of the incomes just mentioned. Be it noted that the court does not claim that national judicial salaries are inherently exempt from national taxation; and, indeed, as we have seen, such salaries are subject to an income tax if the tax is in existence when the incumbent takes office. Thus, notwithstanding the importance of the principle of the separation of powers in our system, as well as of the principle of judicial independence, yet neither of these principles, nor both together, were regarded by the framers of the Constitution as sufficient to secure the exemption enforced in *Evans* v. *Gore*, but that exemption had, on the contrary, to be stipulated for in the written instrument itself. The exemption of incomes from State and municipal bonds and of State official salaries from national income taxation is, on the other hand, merely a deduction, and a far-fetched one at that, from theories external to the Constitution. The question is surely prompted, Why, if implication was insufficient in the one case, should it be supposed to suffice in the other?

The second difference between the case decided and the one suggested is even more cogent, though less obvious. It can be put in this way: That whereas the exemption which judicial salaries receive from the Constitution has no reference to the *source* of the salary but, on the contrary, is extended to the *recipient* thereof, the exemption which is claimed for incomes from State and municipal bonds—and I should say the same thing of State official salaries—is claimed solely on a consideration of the *source* of such incomes and totally without regard to the deserts or necessities of the *recipients*. Or to put it slightly differently, whereas certain judicial salaries are protected *as such* by Article III of the Constitution, income derived from State and municipal bonds is sought to be protected *despite its being income* by considering its source. But if the contention of the present writer be accepted, as it must be at this point at least for the purpose of argument, consideration of source is precisely what the sixteenth amendment forbids in the determination of the scope of Congress's power in taxing incomes. So, conceding the point decided in *Evans* v. *Gore* to have been correctly decided, namely, that the tax there involved was a diminution of judicial salaries in the sense of Article III, the sixteenth amendment had absolutely no bearing on the case; not, however, because the amendment does not purport to enlarge Congress's power of taxing income, but *because the criterion which had previously restricted this power and which is now repealed by the amendment does not appear in Article III.* It follows of necessity that what was said in *Evans* v. *Gore* about the sixteenth amendment was pure *obiter dictum* and without any legal weight whatsoever.

To summarize: (1) Congress has the power to permit State taxation of national securities by nondiscriminatory taxes. (2) On correct theory, it has always had the power to tax incomes from State and municipal securities by a general income tax. (3) The sixteenth amendment restores that power by striking down the judicial theory whereby such incomes came to be exempted. Congress may tax incomes from whatever source derived. The words of the amendment are perfectly explicit, and the sense of them could not be made clearer by a dozen constitutional amendments. What is needed, therefore, is not further tinkering with the Constitution but an act of Congress assertive of its present powers. Nor is there any judicial decision interpretative of the sixteenth amendment which stands in the way of such an assertion of power. Yet even if it were otherwise, that should not deter Congress from taking the proper steps to secure a reconsideration of so important a question. In the words of the historian of the Constitution, "It is the Constitution which is the law, and not even the past decisions of the court upon it * * *. To the decision of an underlying question of constitutional law no * * * finality attaches. To endure it must be right." (Bancroft, *Works*, IV, 549, as quoted by F. J. Stimson, the *American Constitution*, etc., p. 29. See also to the same effect Bancroft's *History* (author's last revision), VI, 350. See further to the same effect George Ticknor Curtis, *Constitutional History of the United States* (N. Y., 1897), II, 69–70; also Chief Justice Taney's words in *The Genessee Chief*, 12 Hon. 443, overruling *The Thomas Jefferson*, 10 Wheat. 448: "We are convinced that if we follow it we follow an erroneous decision, and the great importance of the question could not have been foreseen.")

It only remains to indicate briefly the form that Congress's action should take. This action would be based on the fundamental premise that public securities in the hands of private persons are private property and that the income from such securities is private income. On the one hand, therefore, Congress should subject all future issues of national securities, as well as the incomes therefrom, to the unimpeded operation of the general, nondiscriminatory tax laws of the States, and, on the other hand, claim a like operation for the national income tax upon the incomes from all future State and municipal issues. That is to say, the act should be reciprocal as between the National Government and the States, and it should respect existing vested rights and moral obligations. To be sure, it may be argued that expectations growing out of an attempt to evade taxation are not entitled to much respect, yet the answer is plain: the evasion was one which the law itself allowed and, indeed, promoted, wherefore it would be most imprudent to ask the court to disappoint such expectations. And, anyway, there is no need to cry over spilt milk if only we can make sure that no more milk will be spilt. (An additional difficulty in the way of maintaining *Collector* v. *Day* to-day should have been noticed under sec. II *supra*. *Green* v. *Frazier*, 253 U. S. 233, makes it clear that States may to-day borrow money to an almost unlimited extent for purposes which were nongovernmental in 1789. Yet by *South Carolina* v. *United States*, 199 U. S. 437, *a State is not entitled to claim exemption from national taxation in the discharge of such functions.* On this ground alone the right of holders of State and municipal bonds to be exempt as to such holdings from the national income tax becomes most questionable in many cases. And, generally speaking, it seems clear that the court can not profess to uphold both *Collector* v. *Day* and *South Carolina* v. *United States* indefinitely.)

The letter from Mr. Frierson is personal, but it is of such importance in a public way that I do not hesitate to use it without his knowledge that it was ever to appear in print.

It is a brief, cautious, lawyerlike statement of his own views, and when made in connection with the brief of Professor Corwin, who contends that Evans *v.* Gore has no bearing on the present question, the statement of Mr. Frierson that he would have but little doubt but for that case that the securities could be included in taxable income, is important:

CHATTANOOGA, TENN., *December 20, 1923.*

Hon. JAMES M. FREAR,

House of Representatives, Washington, D. C.

DEAR MR. FREAR: I am in receipt of your letter of December 17, evidently referring to a conversation which I had recently with Senator SHIELDS. I did not, however, state that the case of Evans *v.* Gore is authority for the statement that so-called tax-free securities can not be reached for income-tax purposes. I did say that while

I have not given the subject serious consideration, if my argument in Evans v. Gore had been successful and the dissenting opinion of Mr. Justice Holmes in that case had been the opinion of the court, I would have little doubt that the income from such securities could be included in taxable income. The majority opinion in that case, however, makes the question more doubtful.

So far as obligations of the Federal Government which may be issued in the future are concerned, there can be no doubt of the power of Congress to make income from them taxable. The question, I presume, in which you are interested is the power of Congress to treat State, county, and municipal bonds, or rather the income from them, as taxable income.

Of course, it is settled that bonds of this kind as such can not be taxed by the Federal Government, and I think it is equally true that the income from them as such can not be taxed.

There are, however, two recent decisions of the Supreme Court which I used in Evans v. Gore and which I think have established a principal which may make it possible for Congress in levying a general income tax to require income from such bonds to be included in gross income as the basis for arriving at the taxable net income. I refer to U. S. Glue Co. v. Oak Creek, 247 U. S., 321, and Peck & Co. v. Lowe, 247 U. S., 165. The first of these cases involved a State income tax, and the question was whether in computing net income profits derived from transactions in interstate commerce could be included. The second involved the question whether in computing taxable income under the Federal statutes profits derived from the business of exporting goods could be included.

Of course, it was clear that no State could levy a tax which would be a burden on or amount to a regulation of interstate commerce. And it was equally clear that Congress was expressly prohibited by the Constitution from taxing exports. The court, however, held in these cases that when the State taxed merely the net income of a person or corporation the net profit derived from interestate commerce constituted a part of the taxable income, and that including net profits derived from the business of exporting as a part of the taxable income for Federal purposes was not a violation of the provision against taxing exports. In the latter case the court said, speaking of the tax: "It is not laid on income from exportation because of its source, or in a discriminative way, but just as it is laid on other income. The words of the act are 'net income arising or accruing from all sources.' There is no discrimination. At most, exportation is affected only indirectly and remotely."

The principle thus established seems to be that a general tax upon net income is not a tax upon the sources from which particular parts of the income are derived. I thought that this principal controlled Evans v. Gore. If the court had agreed with me, I would have little doubt that it applied to income derived from so-called tax-free securities. I am, however, in some doubt as to whether this conclusion follows in view of the decision in that case. I am not convinced, however, that that decision settles the question against the Government. I think it can be distinguished from the question you are now considering. In Gore v. Evans the specific provision of the Constitution invoked was that which forbids the diminution of a judge's compensation during his term. The court reached the conclusion that to tax a judge's salary, even treating it as a part of his net income when the tax levied by the Government which paid his salary, was a substantial diminution of the salary. Having reached this conclusion, Mr. Justice Van Devanter distinguished Gore v. Evans from the cases I have referred to, upon the ground that the Constitution expressly forbids such a diminution.

The Constitution contains no express mention of State or municipal securities. As a matter of construction, it has long been settled that securities of this kind, as such, are not taxable by the Federal Government, because the Constitution does not permit the Federal Government to tax the governmental instrumentalities of the States, and neither does the Constitution contain any reference to the power of the States to tax interstate commerce. The conclusion that this can not be done was reached through a construction of the clause giving Congress the power to regulate interstate commerce. There is an express prohibition against the taxing of exports, but, as I have stated, the court has held that the taxing of all of a man's net income which includes some income derived from export business is not such a tax as violates this provision. I can not see any reason why the same principle does not apply to income derived from State and municipal bonds. The difficulty seems to be in reconciling this conclusion with the decision in Evans v. Gore. The doubt in my mind is whether the court would hold income from such securities falls in the class of cases controlled by the two cases I have referred to or by Gore v. Evans.

As stated above, I have given this question no serious consideration, but have merely given you the impressions made on my mind when I was preparing the argument in Evans v. Gore. I think, however, that the question is one well worthy of careful consideration.

Yours truly,

WM. L. FRIERSON.

The foregoing opinions are offered on the constitutional question involved, and certainly coming from the sources they do create more than a doubt as to the constitutionality of a proposal for Congress to tax directly these incomes from whatever source derived. I concede that the Supreme Court has strongly leaned against what the dissenting opinion in the stock dividend case (Macomber, 252 U. S.) declared to be the clear intention of the people when adopting the sixteenth amendment. I also concede that some of the distinguished dissenters from that opinion unfortunately have left the scene of their labors and position they so highly honored, and that their successors may be of different mind. Judges are not essentially different in temperament or ability from those who stand before them on the opposite side of the bench, and with that belief in mind I have proposed a bill that will reach the same end as the proposed Green constitutional amendment, but it is of far wider scope, of more just application, and of immediate benefit by covering income from securities now outstanding, as follows:

A bill (H. R. 4524) to tax the net income on municipal and State securities.

Be it enacted, etc., That section 200 of the general provisions of the income tax law is hereby amended by providing—

"Subdivision 6. The term 'taxable incomes, from whatever source derived,' shall include net incomes received from State and municipal securities and shall be laid and collected the same as all other taxes."

SEC. 2. This act shall not be held unconstitutional or void by the Supreme Court without the concurrence of at least all but one of the judges and shall remain in full force and effect notwithstanding any decision by any inferior court rendered prior to final determination by the Supreme Court.

It is proper to give additional reasons for asking that the same rule employed by the Ohio constitution, which is embodied in the bill, shall be the rule for the Supreme Court on this vastly important question, where the court has been so regularly divided.

I believe where Congress has passed an act after long and careful consideration and that act has been signed by the President under the advice of the Attorney General and that act is then embodied into a constitutional amendment approved by the legislatures of 36 States, and thereafter four judges say of their five brethren, as in the Macomber case, that the finding of the five in overturning and emasculating the constitutional amendment is not a "decent respect due the wisdom, the integrity, and the patriotism of the legislative body by which any law is passed, unless proved beyond a reasonable doubt," that such dissenting opinion from such high source ought to govern Congress in its effort to prevent another more disastrous expurgation of the same amendment. I do not go further than the dissenting judges, as shown by my remarks in the House January 27, 1923, when discussing "seeming laws" enacted by Congress. I briefly quote from such remarks in support of the proposed substitute numbered H. R. 4524.

I offer a few words for those who find fault first more especially with a court decision that by five judges to four first set aside the income tax law passed by Congress. Thereafter when Congress and the country after long delay and arduous effort secured the sixteenth amendment wherewith to overrule the court's previous decision rendered by one overbalancing judge, the court again by another five-to-four decision set at naught the constitutional amendment by emasculating its purpose, so far as stock dividends were concerned. To use the language in that case of a dissenting opinion by Justice Holmes, one of the ablest judges in the country, in which Justice Day concurred:

The known purpose of this amendment was to get rid of nice questions as to what might be direct taxes, and I can not doubt that most people not lawyers would suppose when they voted for it that they put the question like the present at rest. I am of the opinion that the amendment justifies the tax.

Again I submit further judicial criticism of this decision thus in effect setting aside a constitutional amendment when, in the language of Justice Brandeis and Justice Clark, in the same case we have their judicial opinions as follows:

If stock dividends representing profits are held exempt from taxation under the sixteenth amendment, the owners of the most successful businesses in America will be able to escape taxation on a large part of what is actually their income. So far as their profits are represented by stock received as dividends, they will pay these taxes not upon their income but only upon the income of their income. That such a result

was intended by the people of the United States when adopting the sixteenth amendment is inconceivable. Our sole duty is to ascertain their intent as therein expressed.

A suggestion of some respect due Congress is voiced by these distinguished members of a coordinate branch of government when the dissenting opinion further says:

It is but a decent respect due the wisdom, the integrity, and the patriotism of the legislative body by which any law is passed to presume in favor of its validity until the violation of the Constitution is proved beyond all reasonable doubt.

From that dissenting decision of recent date—Eisner *v.* Macomber (252 U. S.)—it is proper to infer, based on high judicial authority, five members of the court refused to accept the will of the people as expressed in the sixteenth amendment and had no decent respect for the wisdom, the integrity, nor the patriotism of the American Congress. These are not my words, but four eminent members of the highest court in the land give voice to that effect, yet were outvoted by one judge.

That this is not an isolated case I quote further from the same remarks to the same effect in a case of equal importance to the country:

Take the so-called legal-tender cases decided in 1870 and involving the constitutionality of the act of Congress making paper currency legal tender in payment of debts. First the law was declared unconstitutional by the Supreme Court, five judges so voting against three favoring the constitutionality of the legal tender act. That decision would have been calamitous to the Nation, then struggling to keep its feet under the staggering financial burdens imposed by the Civil War. Consciousness of this probably influenced some of the justices, for shortly afterwards the same act was declared constitutional by a vote of five to four. (Legal Tender Cases, 79 U. S. 457; Repburn *v.* Griswald, 8 Wall. 606.)

In the early days of our Government a man honored with the highest office in the gift of the people said of the action of the Supreme Court declaring unconstitutional an act of Congress:

The judiciary of the United States is the subtle corps of sappers and miners constantly working underground to undermine the foundation of our confederated fabric. They are construing our Constitution from a coordination of a general and special Government to a general and supreme one alone. Having found that impeachment is an impracticable thing, a mere scarecrow, they consider themselves secure for life; an opinion is huddled up in conclave, perhaps by a majority of one, delivered as unanimous and with the silent acquiescence of lazy and timid associates, by a crafty Chief Justice who sophisticates the law to his own mind by the turn of his own reasoning.

Again he said of the same court:

It has long been my opinion, and I have never shrunk from its expression, that the germ of dissolution of our Federal Government is in the judiciary—the irresponsible body working like gravity by day and by night, gaining a little to-day and gaining a little to-morrow, and advancing its noiseless step like a thief over the field of jurisdiction until all shall be usurped. I have quoted from Thomas Jefferson, whose loyalty to principles contained in the Constitution will never be questioned by anyone familiar with its history.

Even judges have expressed themselves in the past differently than in recent decisions which reverse or overrule laws now termed only "seeming laws."

WARNING ADVICE FROM HIGH JUDICIAL AUTHORITY.

Mr. Justice Chase announced the early doctrine of the court when he said in Hylton against United States:

If the court have such power, I am free to declare I will never exercise it but in a very clear case.

Mr. Justice Miller, before the "seeming law" estimate was announced, said of the court's duty in One hundredth United States Legal Tender cases:

When this court is called on in the course of the administration of the law to consider whether an act of Congress or any other department of the Government is within the constitutional authority of that department *a due respect* for the coordinate branch of the Government requires that we shall decide it has transcended its powers *only when it is so plain we can not avoid the duty.*

I have italicized words that indicate when due respect or disrespect may be determined according to opinions found in Supreme Court decisions.

Justice Waite, afterwards Chief Justice, said in Ninety-ninth United States, page 718:

Every possible presumption is in favor of a statute, and this continues until the contrary is shown beyond a rational doubt. One branch of the Government can not encroach on the domain of another without danger. The safety of our institutions depends in no small degree on a strict observance of this salutatory rule.

Justice Harlan, in the New York Bakeries case (198 U. S. 68), announced a safe doctrine, and said:

If there be doubt as to the validity of the statute, that doubt must therefore be resolved in favor of its validity and the courts must keep their hands off, leaving the legislature to meet the responsibilities of unwise legislation.

A comparison of two expressions from two Chief Justices a century apart will disclose the progress of the court in its alleged usurpation of constitutional rights of Congress.

THE MODERATION OF MARSHALL—THE THUNDERING TONES OF TAFT.

We have our conception of Marshall, the militant, defiant so-called "judicial usurper," shattered by his own voice. Those who listen for hurled defiance in response to fierce thrusts of Jefferson will find nothing in words or inference to warrant by the following from Chief Justice Marshall in Fletcher *v.* Peck (6 Cranch, 87–128):

The question whether a law be void for its repugnancy to the Constitution is at all times a question of much delicacy, *which ought seldom, if ever,* to be decided in the affirmative in a doubtful case. It is not in slight implication and vague conjecture that the legislature is to be pronounced to have transcended its powers and its acts to be considered void.

The italicized words are mine. "Seldom, if ever," said Marshall.

A century thereafter, in 1922, we find the once all-powerful legislative branch of this Government now dwarfed to the position of a suppliant for legislative license constantly waiting, hat in hand, in the anteroom of the court for its seal of approval. The loss of prestige and power of the American Congress and growth of imperial authority by the once mild-mannered court is best expressed by a lusty challenge of Justice Taft, chief for life. In the late case of Bailey *v.* Drexel Furniture Co. (May 15, 1922), he declares:

It is the high duty and function of this court in cases regularly brought to its bar to decline to recognize or enforce *seeming laws of Congress* dealing with subjects not intrusted to Congress, but left or committed by the supreme law of the land to the control of the States. We can not avoid the duty, even though it requires us to refuse to give effect to legislation designed to promote the highest good.

Again the italicized words are mine.

I am frank to say that the court's jurisdiction seems to have reached to "seeming constitutional amendments," according to the 5 to 4 stock dividend decision. Possibly the so-called "tax-free" securities would be seeming securities in the mind of the court, but in view of opinions from Marshall to Harlan we can hope the court will seek to find the intention as well as interests of the country, again to quote the Macomber case, when rendering its decisions.

I can not refrain from quoting one or two other judges who throw light on the present estimate of judicial law as frequently expounded by the high court.

One of the ablest articles on the general subject is "Back to the Constitution," by Chief Justice Clark, of North Carolina. Quoting briefly, he says:

Let us go "back to the Constitution" as it is written. Let Congress and the legislatures legislate, subject to the only restriction conferred by the Constitution, the suspensive veto of the Executive, and with further supervision in the people alone, who can be trusted with their own government, else republican form of government is a failure.

It must be remembered that there is no line in the Constitution which gives the courts, instead of the people, supervision over Congress or the legislature. There is no constitutional presumption that five judges will be infallible and that four will be fallible. If the legislative and executive departments of the Government err, the people can correct it. But when the courts err, as they frequently do, for instance, as in Chisholm *v.* Georgia, in the Dartmouth College case, or in the income-tax case, not to mention others, there is no remedy except by the long, slow process of a constitutional amendment or by a change in the personnel of the court, which is necessarily very slow when the judges hold for life, as they do in the Federal courts.

There is no room in a republican form of government for "judicial hegemony."

This is not a street opinion from a street gamin, but the judicial opinion of a high judicial officer.

From Roosevelt's 1913 Lincoln Day speech I quote:

In this State of New York there have been many well-meaning judges who, in certain cases, usually affecting labor, have rendered

decisions which were wholly improper, wholly reactionary, and fraught with the gravest injustice to those classes of the community standing most in need of justice.

Of Roosevelt's statement quoted, Judge Ford, of the New York Supreme Court, says:

This arrogation of sovereign power by the courts—the power to make laws which fit their individual political and economic views and predilections, without responsibility to the people bound by those laws—is a growing danger to our democracy. * * * Little by little this process of usurpation has gone on, until now we find the courts boldly proclaiming the right to say what shall and shall not be law, regardless of the legislature or the will of the people. * * * As the king and his judges were immune from popular criticism in the old days, so we have clothed our judges with the prerogatives of royalty.

I have not sought to repeat highly sensational utterances, but these presented are among sane, thoughtful expressions on the subject found in my remarks of January 27, 1923, wherein were quoted Senators, governors, presidents of universities, and women like Jane Addams. To say it is not time to consider such protests is to confess our own unconcern in matters that are of vital moment to the people, and can not, to my mind, be successfully defended. Radical legislation or radical utterances are not proposed or urged, but sane, intelligent limitations of power like that proposed in H. R. 4524 are neither radical nor improper to offer unless we confess that our coordinate system of governmental machinery is wrong and that it is time to substitute autocratic power.

Only three cases of overruling laws passed by Congress occurred during the first 70 years of our Government, and yet Jefferson, the patron saint of democracy and the author of the immortal declaration, gave utterance to words that to-day are not generally accepted because we have grown to believe the court has a right to restrain Congress. I am not prepared here to dispute that restraint to which we have grown accustomed is unmixed evil. That one man possessed with human weaknesses and influences from his social or business environments of the past should be free from prejudice, however, is best answered by the frequent divisions of the court along the lines found in the Macomber case. That one man is able safely to hold the legislative conscience and prerogatives given under the Constitution to Congress and the President, who enact and approve laws of utmost importance only to be set aside by the vote of one overbalancing justice, is not conceded. I do not for a moment suggest a sweeping repudiation of the court's jurisdiction quoted from Jefferson, but do believe that the court should be practically unanimous before a law of national scope shall be declared unconstitutional.

THE WHITE HOUSE THEN; THE JAIL NOW.

That fearless estimate, written by Jefferson, the lawyer and writer of the immortal Declaration of Independence and an honored President, would have landed him in jail instead of the White House if penned in the year 1923.

Even John Randolph, one of the ablest of the old Romans, drew an amendment to the Constitution in those early days which read:

The judges of the Supreme Court and all other courts of the United States shall be removed by the President on the joint address of both Houses of Congress.

Under existing nomenclature, Jefferson would be styled a radical and a red, while Randolph would be a type of soviet and Bolshevist that needed close watching by the Department of Justice.

Old Hickory Jackson was a soldier President.

In his message of July 10, 1832, returning to the Senate without his approval the act incorporating the Bank of the United States, he says:

The Congress, the Executive, and the court must each for itself be guided by its own opinions of the Constitution. Each public officer who takes an oath to support the Constitution swears that he will support it as he understands it, and not as it is understood by others. It is as much the duty of the House of Representatives, of the Senate, and the President to decide upon the constitutionality of any bill or resolution which may be presented to them for passage or approval as it is of the supreme judges when it may be brought before them for judicial decision. The opinion of the judges has no more authority over Congress than the opinion of Congress has over the judges, and on that point the President is independent of both. The authority of the Supreme Court must not, therefore, be permitted to control the Congress or the Executive when acting in their legislative capacities, but to have only such influence as the force of their reasoning may deserve.

I can well understand why a partisan may find the opinions of Jefferson, Randolph, and Jackson somewhat foreign to his political affiliations, not because he has any definite understanding of the democracy of those days but possibly he does not like the name because it is not associated with the modern pachyderm that carries his party banner.

For this reason I quote the following sentiment that is of the same general tenor:

The candid citizen must confess that if the policy of government upon vital questions affecting the whole people is to be irrevocably fixed by decisions of the Supreme Court, the instant they are made in ordinary litigation between parties in personal actions the people will have ceased to be their own rulers, having to that extent practically resigned their government into the hands of that eminent tribunal.

The words above quoted are found in the inaugural address delivered by President Abraham Lincoln, whose independence first placed him in Congress and later in the White House instead of jail, although he fought the Mexican War openly on this floor and afterwards led the hosts that reversed the Dred Scott decision in the field of final decision.

Without partisanship or demagogy, the purpose of the progressive income tax and the sixteenth amendment was to make those best able to pay assume their just share of governmental expenditures. The effect of the stock dividend decision and interpretation by Secretary Mellon as to so-called tax-free securities is to shift the tax burden to the shoulders of those least able to pay.

With that in mind, let me again quote:

Of all the questions that are before the American people, I regard no one as more important than this, to wit: The improvement of the administration of justice. We must make it so that the poor man will have as nearly as possible an equal opportunity in litigating as the rich man; and under present conditions, ashamed as we may be of it, this is not a fact.

That the poor man does not have an equal opportunity in litigating as the rich man is a fact of which we are ashamed, according to an eminent man, once President, now Chief Justice of the United States, who made this utterance at Chicago.

Two Republican Presidents have declared their estimate of the administration of justice by the courts. The Dred-Scott case, by 5 to 4, spoke the judicial mind, which was not that of the country as stated on a vastly important constitutional question.

At the risk of being termed somewhat radical in my views, which I submit so far have been the views of justices of the Supreme Court and ex-Presidents, whom I have quoted, another opinion is added to the list of a man who spoke freely and frankly on every occasion. He said:

Either the recall of judges will have to be adopted or else it will have to be made much easier than it is now to get rid, not merely of a bad judge but of a judge, however virtuous, who has grown so out of touch with social needs and facts that he is unfit longer to render good service on the bench.

It is nonsense to say that impeachment meets the difficulty. (That was Jefferson's same criticism.) In actual practice we have found that impeachment does not work, that unfit judges stay on the bench in spite of it, and, indeed, because of the fact that impeachment is the only remedy that can be used against them. Impeachment as a remedy for the ills of which the people justly complain is a complete failure. A quicker, a more summary remedy is needed.

Roosevelt was speaking of State courts, but the same argument, it is submitted, affects United States Supreme Court decisions that against the popular will invalidate both State and Federal laws and in fact destroy constitutional amendments, as evidenced by the dissenting opinion of four judges in the Stock Dividend case. A resemblance and a distinction between the highest State and highest Federal court is noted, for State laws permit the people of the State in time to remove at the polls the offending or not fair-minded judge, whereas a Supreme Justice whose vote may set aside both Federal or State laws concerning the most vital public questions is responsible to no one during his natural life.

In my remarks of January 27, 1923, I sought to present a fair survey of the question confronting Congress and the country when amendments to the Constitution have now become so limited, circumscribed, and emasculated by the court as to leave the remaining shell an "inconceivable" wreck of the people's purpose, to use the conclusion contained in the dissenting opinion of the Macomber case. This case, it should be kept in mind, relates directly to the sixteenth amendment and is in point in this discussion, whereas the case of Evans *v.* Gore has no relaton, direct or indirect, except by obiter dictum.

I have only cited a small fraction of opinions of eminent men there quoted, but enough to indicate a justification in requiring the concurrence of all but one of the judges to set a law aside when once passed by Congress.

I quote from a provision of the Ohio constitution that has been incorporated in H. R. 4524, the bill introduced to increase the scope of taxable incomes from whatever source derived:

> No law shall be held unconstitutional and void by the Supreme Court without the concurrence of at least all but one of the judges.

A provision affecting the tenure of office of judges I submit might properly read:

> Judges may be removed from office by concurrent resolutions of both Houses (of the Congress) if two-thirds of the Members elected to each House concur therein, but no such removal shall be made except upon complaint, the substance of which shall be entered on the journal, nor until the party charged shall have had notice thereof and an opportunity to be heard.

Both provisions, excepting the words in parentheses, are taken verbatim from the constitution of the State of Ohio, from a State that recently claimed for its chief citizen the only man who could appoint judges and chief justices for life, and from the home State of the Chief Justice himself.

A few cases are called to mind that justify a limitation on the unrestricted power now possessed by five men to set aside the acts of Congress.

Widespread extension of the United States Supreme Court's constitutionally provided jurisdiction may be inferred from a few examples of divided decisions that overturn different laws of States and Nation. Only those are mentioned where the opinion of the court is fairly well divided:

United States *v.* Trans-Missouri Freight Association (166 U. S. 290, 1897), Sherman Antitrust Act; four dissenting.

United States *v.* Joint Traffic Association (171 U. S. 505, 1898), Sherman Antitrust Act; three dissenting.

Northern Securities Co. *v.* United States (193 U. S. 197, 1904), Sherman Antitrust Act; three dissenting.

Continental Wall Paper Co. *v.* Voigt Co. (212 U. S. 227, 1908), Sherman Antitrust Act; four dissenting.

Paine Lumber Co. *v.* Neal (214 U. S. 459, 1908), Sherman Antitrust Act; three dissenting.

Duplex Printing Co. *v.* Deering (254 U. S. 443, 1920), Clayton Act; three dissenting.

Employers' Liability Cases (207 U. S. 463, 1907), Federal law held unconstitutional; four dissenting.

Lochner *v.* New York (198 U. S. 45, 1904), New York law held unconstitutional; four dissenting.

Adams *v.* Tanner (244 U. S. 590, 1917), Washington law held unconstitutional; four dissenting.

Hammer *v.* Dagenhart (247 U. S. 253, 1918), Federal child labor law held unconstitutional; four dissenting.

Bailey *v.* Alabama (219 U. S. 218, 1911), Alabama law held unconstitutional; two dissenting.

Coppage *v.* Kansas (236 U. S. 1, 1915), Kansas law held unconstitutional; three dissenting.

Southern Pacific *v.* Jenson (244 U. S. 205, 1916), State compensation acts held unconstitutional; four dissenting.

Stettle *v.* O'Hare (243 U. S. 629, 1917), Oregon law upheld; four to four.

Knickerbocker Ice Co. *v.* Stewart (253 U. S. 149, 1920), Federal law held unconstitutional; four dissenting.

Truax *v.* Corrigan (42 Sup. Ct., 1922), Arizona law held unconstitutional; four dissenting.

Pollock *v.* Farmers' Loan & Trust Co. (158 U. S. 601, 1895), Federal income tax held unconstitutional; four dissenting.

Keller *v.* United States (213 U. S. 138, 1909), Federal law held unconstitutional; three dissenting.

Southern Railroad Co. *v.* Greene (213 U. S. 400, 1910), Alabama law held unconstitutional; four dissenting.

Western Union Telegraph Co. *v.* Kansas (216 U. S. 11, 1910), Kansas law held unconstitutional; three dissenting.

West *v.* Kansas N. G. Co. (221 U. S. 229, 1911), pipe-lines law held unconstitutional; three dissenting.

Savings Bank *v.* Des Moines (205 U. S. 303, 1907), Iowa law held unconstitutional; three dissenting.

Louisville & Nashville Railway *v.* Stockyards (212 U. S. 131, 1909), Kentucky law held unconstitutional; three dissenting.

Ludurg *v.* Western Union Co. (216 U. S. 146, 1910), Arkansas law held unconstitutional; three dissenting.

Union Tank Line *v.* Wright (249 U. S. 275, 1919), Georgia law held unconstitutional; three dissenting.

Newberry *v.* United States (256 U. S. 232, 1921), overruling conviction of Newberry; four dissenting.

I have not quoted the Macomber stock-dividend case (252 U. S.) holding by 5 to 4 such dividends not taxable and thereby losing possibly a half billion dollars in tax revenues to the Treasury, nor are many other cases cited, like the minimum-wage decision or others hard to classify. Many laws, State and National, have been held constitutional by only one vote of the court, and other proportionately narrow escapes in determining constitutionality are not cited.

I realize this hastily prepared justification of the provision of my proposed law requiring practically a unanimous agreement by the court as to unconstitutionality referred to by the gentleman from Texas [Mr. GARNER] may not appeal to those who have a belief in the superattainments and personalities of those chosen to decide controverted questions of law for the rest of us, and I do not yield to anyone my proper respect for the judiciary, which is our legal mediator in human disagreements.

No man, however exalted, in my humble judgment, can safely be given power to set aside the action of the American Congress by his counterbalancing vote. No man of any other country, whether monarch or dictator, to my knowledge possesses equal power or any rights approaching such power. Greater than Congress and the Executive combined, he sits unchallenged and supreme to-day.

The members of the court are in for life and however distant from public sentiment, as declared by justices in the dissenting Macomber decision, they remain where their judgment can not be impeached or influenced by any party or any power of government to affect their conclusions to the end of life.

I believe the question is one in which the greatest good is to be served, irrespective of the gradual concentration of power in the hands of five men, whoever they may be. I do not necessarily subscribe to or urge the views of Jefferson or Randolph or Jackson or Lincoln or Taft or Roosevelt, all men of acknowledged greatness and all of whom have been briefly quoted. I do say that some limitation placed on the power of the court to declare laws unconstitutional does not seem a radical step.

If Congress can determine the number of judges and many other matters of detail, why should it not, with the record before it, ask that on great governmental questions that have been submitted to the people by constitutional amendment the court must be nearly unanimous before the amendment shall be further emasculated and the income-tax principle further weakened?

Why should not the homely principle of requiring a petit jury to render a unanimous verdict in the simplest matters of controversy be at least approached in matters of law when great economic and fundamental principles are at stake and are now judicially determined by five-to-four decisions?

Mr. GREEN of Iowa. Mr. Chairman, how does the time stand?

The CHAIRMAN. The gentleman from Iowa has 2 hours and 20 minutes remaining, and the gentleman from Arkansas [Mr. OLDFIELD] has 2 hours and 40 minutes.

Mr. GREEN of Iowa. Will the gentleman from Illinois use some time on his side?

Mr. RAINEY. Mr. Chairman, I yield one minute to the gentleman from South Carolina [Mr. MCSWAIN].

The CHAIRMAN. The gentleman from South Carolina is recognized.

Mr. MCSWAIN. Mr. Chairman, since I can not submit anything new in the way of discussion or of argument on this resolution, I use this opportunity to discuss the necessity of the matter of national defense and the encouragement of agriculture and the practice of fixation of nitrogen from the air. I ask unanimous consent to extend my remarks on those questions.

The CHAIRMAN. The gentleman from South Carolina asks unanimous consent to extend in the RECORD his remarks on the necessity of national defense, the encouragement of agriculture, and the fixation of nitrogen from the air. Is there objection?

There was no objection.

A POLICY OF GENUINE INDEPENDENCE.

Mr. MCSWAIN. Mr. Speaker, the policy of this Government indicated by section 124 of the national defense act of 1916 is far-reaching and of vast importance. By that section Congress declared that steps should be taken to accomplish the independence of this Nation from the despotism of the Chilean Government over our supply of nitrates. It was a solemn recognition of the stern necessity to provide the means of self-defense in both time of war and in time of peace. Nature placed a mighty deposit of nitrates near the west coast of South America, and the same finally came under the jurisdiction of the Chilean Government. That Government has been largely supported by its duty imposed upon the exportation of nitrates, and the duty

has risen until it is now $10 per ton. When the costs of digging and transportation to the seaport and transportation by sea to an American port and unloading and transportation to the point of ultimate consumption are all added together, one can see the vast burden that this necessity is imposing upon the Nation.

NITRATES ESSENTIAL DURING BOTH WAR AND PEACE.

This Chilean nitrate has been our sole source of nitrogen in the compounds used for the making of explosives in time of war and fertilizers in time of peace. To illustrate its importance as an ingredient, our Government both manufactured and purchased and shipped to France during the year 1918 1,650,200,000 pounds of nitrogen content for use there in battle. The estimated value of this particular nitrogen content is $66,000,000. The other constituents of the explosives employed would multiply the weight and value of the explosive compounds. For illustration, when a 12-inch gun is fired, the nitrogen content of the explosive employed is 592 pounds and has a value of $15. For the United States to go to war with any great naval power and not have an interior source for the supply of fixed nitrogen to manufacture explosives would be as foolish as for a man sitting on the limb of a tree to saw that limb in two between himself and the body of the tree. A great naval power might destroy our Navy, or might blockade the ports of Chile so that nitrates could not leave, or might blockade our own ports so that nitrates could not arrive—and without nitrates we can not make war. It therefore became imperative that we should employ modern scientific knowledge to produce nitrates upon our own land and far enough from seaport towns to render our nitrate base secure from bombardment by a hostile fleet.

OUR WASTING LANDS NEED NITRATES.

The second aspect of the nitrate question relates to agriculture and is of hardly less importance to the life of the Nation than defense in time of war. The vast stretches of virgin soil in America have already been occupied, and by reason of constant planting, without restoration to the soil of the fertilizing properties exhausted, are becoming year after year less productive, while the demand for food is becoming more and more insistent. So long as we had an abundance of fresh, unused lands, to which adventurous people might go after having exhausted the natural fertility of the lands in the older sections, this problem of food and raiment—all of which must come out of the soil by reason of the labor of the farmer—we never felt the necessity of conserving our soils and of rebuilding wasted lands.

CHEAPER TO RECLAIM WORN LANDS THAN TO IRRIGATE DESERT LANDS OR DRAIN AND DEFEND LOW LANDS.

After the wooded lands were cleared and worn out, and after the prairie lands were completely occupied, we began to look around for more land, and at vast expense we met this demand by reclaiming millions of acres from the desert by extensive irrigation. We beheld in the marshy lowlands of the Mississippi, subjected to periodical inundation, lands of vast productivity if rescued from the floods. Therefore, at huge cost we built mighty levees and enormous canals and tributary ditches and drains, to make available these lands of fabulous fertility, so that upon them might be produced the things that men, women, and children must have to support life. But just as the limit was reached in the occupation and cultivation of well-watered and fertile uplands, so the limit for the reclamation of arid lands and flooded lands will soon be reached, and the question arises, "Where will we look in order to obtain more food for mankind?"

DEMAND FOR MORE FOOD TO INCREASE—POPULATION INCREASES, BUT LAND DOES NOT.

Some people, who have never been hungry and have never realized a scarcity of food, may think such considerations proceed from an alarmist spirit and that they are the counsels of pessimism. But let us look about us with calm and undisturbed minds, neither soured by pessimism nor blinded to facts by an unreasoning optimism. While a blind optimist is a good and cheerful companion, he is likely to be a poor guide. A blind man can lead a procession when the road is straight and smooth and wide, but it takes eyesight to discern the curves ahead and the obstacles and pitfalls that lie in the way.

I take it that we of this generation realize that our forefathers, who established the foundation of this Republic, were looking not alone to the generation they served but were looking far ahead and had us in their mind's eye. So I believe that we are the representatives not only of our constituents now able to cast their ballots but more surely we should be the representatives of their children and of their children's children. All legislation should be forward looking, important as may be the present purpose and aim of legislation; the paramount consideration is its final and far-reaching consequence upon the people. Therefore let us seek to discern our duty to the future by recourse to the record of human experience. Is it probable that there may be in the future an actual shortage of sufficient food to supply the physical needs of our people? And I may not stop with confining it to our own people, because the modern world is a community. Steam and electric railroads, steamboats, telegraph, telephone, wireless telegraphy, and radiography have reduced the relative size of the world so that to-day the needs and sufferings of the people in the remotest quarter of the world are known and read instantly by intelligent people everywhere; and where calamities, disease, pestilence, and war come then human sympathy leaps the frontiers of nations and overcomes racial prejudices; and wherever there is food enough and to spare the people send food and supplies to the starving and suffering elsewhere. Heretofore this new-found western world, North and South America, have been in a sense the granary for the rest of the world, and we have prospered by exporting to other parts of the globe our surplus products of foodstuffs. For illustration, the United States exports about 25 per cent of its food supplies. If this exportation were cut off by reason of its requirement for home consumption, then it is certain the people of other nations would suffer.

TRUEST CONSERVATION IS RESTORATION OF WORN AND WASTED LANDS.

The tendency in our country is bound to be toward a diminished production of foodstuffs per acre unless we employ some means of fertilization not at present available. The cost of Chilean nitrates is too high. Furthermore, the supply of Chilean nitrates is limited, and with the whole world looking to Chile for nitrates the supply will be exhausted in a few decades. The early American farmers were wasteful of our virgin soils.

Even within my own recollection I have seen farmers in South Carolina, one of the first States to be settled, cut down vast stretches of timber and burn it where it fell in order to make way for the plow, and I have seen these very same lands in a few years completely worn out by washing and wastage and then abandoned to grow up in briars and bushes and pines, while the farmer or his sons cut the virgin timber on other lands, which in turn will soon be exhausted, until to-day practically all of the virgin forest lands in the whole eastern part of the United States are gone, and gone forever, except where situated in swamps or upon rugged mountain sides unavailable for agriculture. The problem of this generation, and more insistently the problem of the next generation, will be to conserve the fertility of the fresh lands and to restore the fertility of the wasted lands. Nature is doing all she can to restore them. But the nature process is too slow to meet the pressure of a constantly and rapidly growing population.

INCREASING POPULATION REQUIRES MORE FERTILE FIELDS.

This matter of a probable future conflict between diminishing agricultural returns per acre and increasing human population per square mile is no conjectural and academic matter. In the year 1800 the population of the United States was, in round numbers, 5,000,000, and in the year 1900, in round numbers, it was 75,000,000; thus being multiplied by 15 in 100 years. The statistics for the whole world are interesting and highly instructive. It is estimated that the population of the world in 1800 was about 800,000,000, and we know that in 1900 it was about 1,500,000,000; thus the world had doubled in a hundred years. In the year 1700 the population of Europe was about 90,000,000, and in the year 1800 it was about 180,000,000, and in the year 1900 it was over 400,000,000. Thus the population of Europe for two centuries increased in a geometric ratio with a multiple of two. Statistics show it takes about two and one-half acres of land to support each human being, this average being arrived at by taking into consideration pasture and grazing lands to produce meats, as well as arable lands to produce cereals and vegetables. There is a most instructive discussion in the Yearbook of the Department of Agriculture for 1918 by O. E. Baker and H. W. Strong, and briefly we find from their collection of facts that in 1910 there were in the United States about 478,000,000 acres of improved lands, about 600,000,000 acres of forests and woodlands, 745,000,000 acres of range land for cattle grazing, 40,000,000 acres of desert, and 40,000,000 acres occupied by cities, towns, parks, roads, and railways.

It has been estimated that the maximum improved cultivated land in the United States will be 800,000,000 acres. That being so, at the present rate of two and one-half persons for each acre the maximum population supportable by the agricultural lands of the United States would be about 320,000,000. Already we have about 110,000,000. If we should increase during this century at the same rate as the last century, to wit, fifteen

times, then in 100 years from now we would have over 1,500,000,000, or five times as many as could be supported by the present productivity of our soil.

IMMIGRATION AS A FACTOR IN OUR GROWTH.

Of course we must understand that the enormous increase of fifteen times during the nineteenth century was due not merely to the natural multiplication of our own population but partly to immigration. It may be possible for statisticians to determine just how much was contributed by immigration and how much by natural increase. If we ascribe to immigration two-thirds of the increase, then we find that if there had been no immigration our population would have been multiplied by five during the nineteenth century; and if the same increase without the addition of immigration were to continue during the twentieth century, then at the end of 100 years we would have a population of 500,000,000, when on the basis of the present productivity of the soil we could probably support only 320,000,000.

SOME REASONS FOR SUSPENDING IMMIGRATION.

I am persuaded that for the present century the factor of immigration will be largely eliminated. I believe that the thinking, unselfish, patriotic people of America have come to the conclusion that it is time to shut the doors to the hordes from every country of the globe that are seeking to come and divide our wealth with us. The opposition to immigration is not based solely upon selfish economic grounds. It is not merely that the American laborer does not wish competition with cheaper labor from other lands. It is based not only upon the unwillingness of the American farmer to come in competition with the intensive methods that the European farmer would employ on our own lands.

It is based upon the deeper reason that such a variety of nationalities and races gathered hurriedly without time for assimilation might and probably would produce disaster. The typical American citizen, even those who trace their lineage to immigration before the American Revolution, realize that he is a conglomerate, and therefore his sympathies are broad, with a tenderness toward the unfortunates of any land who may seek to better their lot. But the instinct of self-preservation is not selfishness; it is the God-given impulse for racial perpetuation. There are certain American ideals and standards and concepts that must be conserved, and if possible intensified, in order that the American Nation may achieve its high and manifest destiny. We think, therefore, that immigration will not largely contribute to the increase of American population during the 100 years to come. Yet those who would be immigrants will be somewhere on the face of the earth and they will be increasing in numbers wherever found, and the demand for food, as a world demand, will be more and more insistent. By reason of modern scientific and hygienic practices the span of human life has been lengthened. The former high mortality rate among infants has been reduced, and every human being coming into the world has more than twice as good a chance to live and to mature and to reproduce itself than those born 100 years ago. Therefore no mere pessimist was necessary to sound the alarm, but such a cautious and conservative person as Prof. Edward M. East, of Harvard University, in his book entitled "Mankind at the Cross-roads," after thorough and careful consideration of all available data, concludes that the maximum population that the arable lands of the world will support under present methods of tillage and fertilization is 5,200,000,000, and that at the present rate of increase this figure would be reached in a little over 100 years. When we allow for the restrictive forces of war and pestilence and disease and catastrophies, such as earthquakes and fires, and cut the estimate of Professor East in half, the problem of producing enough food for the population of the world to live upon will be intensely acute within 200 years. That is a long time for the individual, but it is not so long in the life of a nation, and it is as nothing in the life of a race. It is only about 200 years ago since George Washington was born in Westmoreland County, down the Potomac River, and when we stand at the gate of his tomb where he lies in peaceful majesty near the beautiful Mount Vernon mansion, we seem to be able to realize how close he is to us. We are in this splendid Capital City, whose location was largely decided by Washington, and whose streets were laid out under his personal direction. This very building, which personifies the youthful vigor of this Republic, was conceived by him and its corner stone laid by his own hand on September 18, 1793. We should remember we are the representatives not so much of living constituents as we are of their children and their children's children. It is therefore for us to look ahead and to prepare the way whereby the doors of opportunity for life, and health, and happiness, and prosperity may be open to the generations that follow us.

DEMAND FOR FOOD AGAINST SUPPLY OF FOOD.

The seriousness of the race between the supply of food and the increase of population is not recent revelation. Of course, long before Malthus discussed the question writers had hinted at its constantly increasing importance. But it remained for Sir William Crookes, the discoverer of the "Crookes tubes" and the inventor of many applications and appliances for the use of radiology, to startle the world by his announcement in 1898 that by the year 1931 the land available for the production of wheat would have reached its maximum of 300,000,000 acres, and that the population by 1931 would be consuming all of the wheat that could be produced under the methods of culture then employed. He suggested then the necessity of employing fertilizers produced by the fixation of nitrogen from the air. He realized that the natural stores of nitrates in Chile must at best last for only a few decades. So leaving out of consideration the matter of national defense in time of war, it is imperative that our Nation proceed to become economically independent of Chile and to become self-sufficient for the production of wheat, not only for our own consumption, but to produce the exportable surplus so as to make agriculture profitable.

MUSCLE SHOALS THE BEGINNING.

Eighty per cent of the atmosphere is free nitrogen, and we have undeveloped water power in great abundance in every quarter of our country. We have made a start at Muscle Shoals. We had to begin somewhere. When the practicability and economy of such shall have been demonstrated at Muscle Shoals then we may expect other developments in other parts of the country until the total production of nitrates shall not only equal the present consumption of 200,000 tons, but the farm lands of this country need and should have at least 1,000,000 tons a year. There is practically no limit to the nitrogen available, and there certainly is water power that can be developed to produce the million tons of fixed nitrogen annually. Scientists tell us that impending upon every square yard of the earth's surface there are 7 tons of nitrogen worth about $20,000, so that on every acre there are about $1,000,000 worth of nitrogen.

TO REDUCE THE COST OF LIVING.

The economic consequences of the liberal application of cheap nitrates are so great as to startle the imagination. It has been conservatively estimated by scientists and practical producers of nitrates by mechanical and chemical processes that the costs for nitrates can be cut in half. If the 40,000 tons annually to be produced as a starter at Muscle Shoals has no greater consequence than to depress and lower the price of imported nitrates, Muscle Shoals will pay for itself every year from the first. When the farmers are able to cut their fertilizer bills in half and at the same time probably double their production, they will themselves become economically independent; the mortgages will be lifted, better residences and barns will be built, domestic conveniences will be used, farm life will be made attractive, and the cityward movement of population will be partially checked. With cheaper fertilizers and increased production, the farmer can afford to sell his produce at prices below what is now necessary to be exacted in order to enable him and his family to exist; and yet the farmer would take down the profits to pay for the land, to lift the mortgage, to build and paint the houses, to educate the children, and to lay by the store for old age. When produce is sold cheaper the real beneficiaries will be the wage earners and salaried people in the great industrial, commercial, and financial centers. When the cityward trek is checked and the cost of living reduced because of an abundance of things to eat, the mounting prices for rents in the cities will stop, and laborers, clerks, teachers, and all who work for a daily wage or a monthly salary will have a larger surplus whereby to increase their enjoyment of literature, art, and music and to enable them to get the necessary exercise in the great outdoors to preserve health and prolong life.

INCREASED FARM PRODUCTION TO BENEFIT THE WHOLE COUNTRY.

I have heard objection seriously urged to the expenditure of money by the Government for the development of this great nitrate industry at Muscle Shoals by those representing great financial and commercial centers on the ground that this is in the nature of class legislation, on the ground that it is for the benefit of the farmers only, and it is urged that a higher percentage per capita of the internal revenue, principally derived from income taxes, is collected from these commercial and financial centers, and that therefore these business interests and men are called upon to make contribution for the benefit of the farmers; that the money is taken out of the hands of the banker and the capitalist and the industrialist and by a sort of Government subsidy indirectly put into the pocket of the farmer.

Let me remind those who have hastily jumped at such conclusions that their argument is superficial and that they must look beneath the surface of mere tabulated figures, back into the forces and facts of wealth production. The New York bankers and capitalists handle vast millions and billions of money, and they have jumped at the false inference that money is wealth, and since they have the money, or at least control it, they think that they have, or control, the wealth of the Nation. But they must remember that money is only the symbol of wealth, and that millions may starve from hunger and freeze from cold though inundated by piles of coin and currency. The wealth of the Nation represented by figures and the circulating medium is produced and produced only in the field, in the forest, in the mine, and in the factory. Of all forms of wealth that produced on the farm is most valuable, because it is vitally indispensable. Though machinery be important, meat is essential. Though trains and automobiles and steamboats are conveniences and useful, yet wheat and potatoes and beans and all the grains and fruits and vegetables are indispensable for the continuation of life itself. What nitrates and the other elements that go to make up explosives for military purposes, what artillery and rifles and airplanes and submarines and battleships are to the Nation in time of war, so the products of the field are to the Nation during both peace and war. We speak of the Army and the Navy as the great agencies for national defense, but, of course, they defend our life only in time of war, which is and should be an increasingly small percentage of the time. But agriculture, the production of things for people to eat, is the continuing, unending, unvarying agency of national defense all the time. So that our friends from the great financial centers must not think that they are giving money to the farmer, because the farmer has indirectly and originally contributed all the wealth that is piled up by the billions in such a great city as New York. And as already stated, by reason of the cheapened cost of production, the cost of living to the city folk will be reduced, and ultimately the city folk will be the chief beneficiaries of a method whereby the farmer can produce more things to eat at a reduced cost.

The city economist, the man whose vision does not extend beyond the municipal bounds, the man who interprets all economic phenomena in terms of the countinghouse and the exchange, and the board of trade, must remember that he is finally and eventually more interested in the prosperity of agriculture than even the farmer himself. Why? Because, however depressed agriculture may become, though the farmer be unable to educate his children, to paint his house, to pay his doctor, or to pay his preacher, yet it will be impossible to starve the farmer out. He controls the fountainhead of things to eat. And even if he does not produce a surplus and put that surplus upon the market, he will produce enough to sustain life for himself and his family. What the city economist must remember is that unless the farmer finds it profitable to produce that surplus, then he will cease to produce it, and when he does cease to send his wheat, and corn, and cattle, and beans, and vegetables of a hundred forms into the cities daily what will happen to the nearly 75,0000,000 of people now herded in the cities, towns, and industrial centers far removed from the fields and sustained only by the continuing inflow over the railroads and highways? We know that the stores of food carried in the warehouses will not support the city population for 30 days, and we know that if these warehouses are not replenished by the surplus from the farm that in less than 60 days babes would die at the breast of starving mothers, fathers would blow their own brains out, and skull cracking and throat cutting, riot, and confusion would reign, and in but a few weeks the labor of millions piled up in brick and mortar and stone and steel would be as worthless as the cliffs in the Grand Canyon of the Colorado.

But I do not anticipate any such disastrous and direful consequences. I expect the American people collectively, through their great agency, the Federal Government, and individually in their personal and private affairs, to exemplify the true principle of preparedness. I expect that the representatives of the people will manifest foresight and realize the necessity to have an abundant supply of nitrates for war purposes upon their own land. I further believe that the plants not only at Muscle Shoals but wherever else similar plants shall be established should be employed for the manufacture of agricultural fertilizers in time of peace. This will be true preparedness of a practical and common-sense kind. It has been objected that because the Federal Treasury will receive interest only upon that part of the investment at Muscle Shoals made after May 31, 1922, that thereby the Government is suffering a financial loss, and thereby Mr. Ford directly and the users of agricultural fertilizers indirectly are subsidized.

But we must not forget that the power developed at Muscle Shoals and the great nitrate fixation plants are in a certain and primary sense instruments of war. They are like battleships and battle cruisers and airplanes and artillery and arsenals. How fortunate would we consider ourselves if we could lease our battleships for some commercial purpose for use in time of peace and receive 4 per cent upon the investment in same and be relieved from the expense of maintaining crews, with the guaranty by the lessee that in the event of war the battleships would be returned to us in prime condition for war purposes! What a happy arrangement it would be if, while our standing Army is training in peace time, it could also be self-supporting by cultivating fields, or by carrying on industry, or by building roads! What a fine business proposition it would be if our Artillery horses and our Army mules could be employed in cultivating fields and building roads and cutting irrigation canals and digging drainage ditches in time of peace! We see, therefore, how fortunate we are to have at Muscle Shoals a great arsenal for the preparation of explosives in time of war, and yet that arsenal not only carries itself without being an annual drain upon the Treasury of the United States, and not only does the Treasury receive interest on the outlay after May 31, 1922, but the lessee puts up out of his own pocket an annual sum to be placed into a sinking fund which, at the expiration of the lease, will amount to sufficient to amortize the total investment in the dams. So that the Federal Government at the end of the lease will have a great asset for national defense, rendering us wholly independent of Chilean nitrates, and we will have received interest on the investment, and the investment itself will have been paid off, so that in effect the dams will not have cost our Treasury anything. Not only this, but in the meantime this arsenal, this great source of nitrates, this laboratory to produce that without which the Navy is helpless and the Army worse than helpless, will have been through all the years producing nitrates for fertilizer purposes for at least one-half the present cost to the farmers and resulting in a vast increase in agricultural products, thereby aiding the farms and at the same time conferring a blessing upon the industrial workers, wage earners, and salaried people of the cities by reason of a reduction in the cost of living. Considered from every possible angle, this mighty project at Muscle Shoals ushers in a new day in the life of this Nation. Creative chemistry, directed by science and patriotism, will become the handmaid of prosperity. What the blast furnace and the forces of chemistry and the mechanical principles have done for industry in multiplying the producing power of the single man and thereby increasing his earnings, we believe they will in like manner work a revolution in agriculture, and that the contentment and prosperity that will result from increased supplies of food products will be the best guaranty that can be underwritten to insure the stability and the permanence of this Government.

Mr. RAINEY. Mr. Chairman, I yield 10 minutes to the gentleman from Mississippi [Mr. QUIN].

The CHAIRMAN. The gentleman from Mississippi is recognized for 10 minutes.

Mr. QUIN. Mr. Chairman, I ask unanimous consent to extend my remarks in the RECORD by inserting the splendid brief of the attorney for the Federal Farm Loan Association.

The CHAIRMAN. The gentleman from Mississippi asks unanimous consent to extend in the RECORD his remarks by inserting the matter indicated. Is there objection?

There was no objection.

The CHAIRMAN. The gentleman from Mississippi is recognized for 10 minutes.

Mr. QUIN. Mr. Chairman, we have before us to-day one effort to undermine the Constitution of the United States through an amendment here, and to sap the vitality out of the Constitution of every State in this Union.

To my mind, there can be nothing more shocking than for gentlemen from the South on this floor to advocate amending the Constitution of the United States and laying the hand of the Federal Government on the credit of the States of this Union and of every county, municipality, and political subdivision therein. When we see Congressmen coming from that portion of this Union proposing to surrender the right of these subdivisions of the States to a central Government, we had just as well make an emperor or a kaiser and go home, so far as the fundamental principles of our Government are concerned. [Applause.]

Consider the fallacious arguments that have been made here! Consider all this talk about thirty or forty billion dollars in tax-exempt bonds, as the gentleman from Wisconsin [Mr. FREAR] said. The truth is, there are only $12,300,000,000 worth of these tax-exempt securities; only 3 measly per cent of all

the invested wealth of the United States is represented in this great bugaboo here of tax-exempt securities. If they were taxed under our present income tax law, it would be only 1 per cent of the entire amount of taxes collected. What does the gentleman from Georgia [Mr. CRISP] mean, and what does my friend from Alabama [Mr. HUDDLESTON] mean, when they advocate the placing of an extra burden upon their constituents?

With $12,300,000,000 worth of securities out, who is paying the taxes on it? Gentlemen forget that when a man buys that low-interest-bearing security, he pays his taxes in advance.

What per cent of it is in the hands of corporations? Sixty per cent. All you have to do is to investigate the records in the Treasury Department. You talk about a few rich people being the only ones who hold them. They are held by savings banks, by insurance companies, and by men and women alike in humble circumstances.

I want to tell my friend from Alabama [Mr. HUDDLESTON], who nearly always stands up for poor people and is generally right, that this time he has come out in the open with this crowd of burglars, who even want to take the bread out of the mouths of the poor people.

Why is it the Wall Street bunch is fighting the Federal farm-loan banking system, for which we fought for years back yonder? I was here when we passed that act, and I smelled the same old he polecat the other day when this fight started. Why does the gentleman from Georgia [Mr. CRISP] and the gentleman from Alabama [Mr. HUDDLESTON] join with Wall Street, with the enemies of the laboring class and the farmers of this country? Talk about Wall Street not being in this thing. Can you expect that it is not in this fight when we see such gentlemen as the Secretary of the Treasury; my distinguished friend from New York, Mr. MILLS; all of the higher-ups of organized wealth; and with good intentions the gentleman from Alabama and the gentleman from Georgia going arm in arm on this proposition?

They say, "We are here to help you; we are friends of the people," and yet at the same time they reach down into their pockets and bring out this proposition which will add more interest on the mortgages to these poor farmers who will have to carry these securities. They say, "We do not want you to let the poor people have good roads; we do not want you to allow poor people to have decent schools back in the country; we do not want municipalities to have paved streets, proper sanitation through sewerage, electric lights, or water. We do not want any such improvements as that." But they want to lay the heavy hand of taxation upon all the undeveloped portion of this Republic.

They say the bonds will be taxed in the States themselves, as well as by the Federal Government. These gentlemen proposing and advocating this amendment to the Constitution know that not over 5 per cent of the bonds will be left back home where they will be taxed, but those bonds will be altogether like the life-insurance money; it all goes to New York; it will be like all the railroad money which goes to New York, and if it is taxed at all by any State, it will be taxed by New York State and go into its coffers. As far as the Federal part of it is concerned it will be so infinitesimal that every time they get $1 into the Federal Treasury they will take $3 out of the pockets of the people throughout the United States and thus add to the burdens of those who must pay for these bonds and the interest on them.

All of these gentlemen know that action of this kind will increase the interest rate upon municipal bonds and upon farm securities. They now get their money from Federal farm loan associations at 4½ and 5 per cent and never pay over 6 per cent, while back yonder before we had the Federal farm loan system the farmer could not get money under 8 and 10 per cent, and then had to pay a commission and bonus on top of that. But now he can get his money at a very much lower rate of interest, and instead of having to pay it in 9 months or 12 months he can get it for all the way from 5 to 40 years.

Yet the gentlemen who are bringing in this amendment propose to take away from them the very mudsills of that splendid system of credit for the farmers of this Republic, who for all of these years have been wading about in the wilderness looking for somebody to help them, and after we have given them a system through which they can be financed there come men from our own section, the rural section, who are supposed to stand for the man behind the plow, saying by inference and vote on this floor that they can help the farmer by going in with the great wealthy class and putting more taxes on the farmers; make them pay a higher rate of interest for the money they have to borrow; make them have to pay more for the streets they have to walk on, because we can not have these Government bank loans to farmers and these improvements in the cities and in the towns unless some persons pay for them; and the man who buys these securities, paying his taxes in advance by taking them at a low rate of interest is just as good a citizen as the man who puts up his money and gets 10 or 15 or 20 or 30 per cent profit on every dollar he invests. I do not understand the difference between them. They talk about Mr. William Rockefeller. If he had $43,000,000 invested in municipal bonds, and in farm-loan bonds, in schools, and in public buildings, he was just as good a citizen as Mr. Mellon or as Mr. Carnegie ever was, or Mr. Schwab, or I am, or anybody else investing money, because he was investing his money where it was doing the most good.

If I can make 30 per cent, I am going to do it; and if Mr. Mellon or Mr. Rockefeller can make 30 per cent, he is going to do it. We might just as well be honest with ourselves. These men are not escaping taxation. Somebody must buy these bonds. They talk all this rot about this money going into industrial activity. Who is going to put it into industrial activity? If these gentlemen had to sell these bonds, would not some more money have to take the place of them? You can not empty a bucket of water and keep the bucket full at the same time, unless you fill it up again. [Laughter.]

The CHAIRMAN. The time of the gentleman has expired.

Mr. QUIN. Could I have three minutes more?

Mr. RAINEY. Yes; I yield three minutes more to the gentleman.

Mr. QUIN. These gentlemen talk about industrial activities not having funds, and, by the way, one of the great railway presidents of the United States, I have noticed in some of the papers, has put an advertisement advocating this taxation of our tax-free State and municipal bonds, stating they can not sell their railroad securities because money has gone into tax-exempt securities. Do they believe that by some stroke of magic somebody will suddenly create the $12,300,000,000 to take the place of that which is already in these securities? The life-insurance companies and the trust companies throughout the East and the savings banks that take the poor people's money and the money of the working people and give them 2 or 3 per cent on their money buy these exempt securities, and it is good business. It is the proper thing.

Aside from the fact that it would be laying defiled hands upon the fundamentals of our States-rights doctrine, it is wrong and foolish from every standpoint of economy so far as government is concerned, according to my judgment, for this Republic to allow the Federal Government to impair the credit of a State. Not only that but this gives a State the right to tax the bonds of the Federal Government itself.

Who can believe that that is sound and wise in the economics of government. Who can believe that this Republic ought ever to surrender that right and allow a State the right to tax its securities. A hostile feeling in any State could tax out of existence the securities of the Government itself. On the other hand, the Government of the United States should not be allowed to lay its hands upon a single security of any subdivision of a State or any municipality or upon any security of the State itself. They came very near ruining many States by taxing the bank issues, and many States of the South had their credit nearly ruined. If you can allow the Federal Government to tax the securities of a State, you can say that there shall be a 10 per cent tax on a bank note or 10 per cent on every security of a bank.

I submit we should not adopt such a foolish resolution and impair the credit of the States of this Nation and destroy our farm-loan system and cripple the farmers, who need our help. [Applause.]

The CHAIRMAN. The time of the gentleman from Mississippi has expired.

Mr. QUIN. Under leave to extend my remarks I submit the following:

MEMORANDUM OF HOUSE JOINT RESOLUTION NO. 136 TO AMEND THE CONSTITUTION OF THE UNITED STATES BY AUTHORIZING THE TAXATION OF SECURITIES ISSUED UNDER STATE AND FEDERAL AUTHORITY.

[Prepared by Lester C. Manson, attorney for Federation of National Farm Loan Associations.]

It may be that the Constitution of the United States should be amended, as is proposed by House Joint Resolution No. 136. An evil may exist which should be remedied. The proposed amendment may be a remedy which will do more good than harm. However, the existence of the evil, its nature and extent, and the kind of remedy required to meet it, can not be determined without an intelligent understanding of the pertinent facts.

The facts as to the alleged evil of tax exemption have been so distorted and exaggerated as to give the appearance of actuality to a purely imaginary situation. The proponents of this measure have not been frank, fair, and candid with Congress. They have failed to call attention to the material facts contained in the publications of the Treasury Department. Such facts, when brought to light and considered, destroy the whole case which has been built up in favor of this resolution. They have attempted to support pure sophistry by figures which, when analyzed, have no material bearing upon the real issue involved.

Furthermore, the effects of this amendment, if adopted, have been grossly misrepresented.

SUMMARY OF SITUATION.

1. This amendment destroys the essential fundamental sovereign right of the States to raise money for State purposes without hindrance or burden. (See p. 5.)

2. Subjecting bonds, issued under State authority, to the Federal income tax will result in an increase of 20 per cent in the cost of all money borrowed by the States and their political subdivisions for good roads, schools, reclamation of waste land, streets, sewers, waterworks, parks, public buildings, and all other purposes. (See pp. 8 and 11.)

Had this amendment been in force when the State and municipal securities now outstanding were issued, the additional interest burden, which would be met by increased general property tax, would amount to $95,360,000 a year.

3. This amendment adds no property to that otherwise subject to the local general property tax to absorb this increase in interest charges. (See p. 7.)

4. While the rights conferred by the amendment on the States and on the Federal Government are reciprocal, yet—

(a) Only the few States which impose income tax can avail themselves of any rights under this amendment (see p. 7); and

(b) About the only additional incomes which the States may tax are such as may be derived from farm-loan bonds owned by residents of the State. (See p. 7.)

5. Unless Congress applies the Federal income tax to farm-loan bonds it can not be applied to any security issued under State authority. To do so would constitute discrimination in favor of securities issued under Federal authority. This is expressly prohibited by the amendment.

6. Were farm-loan bonds subject to the Federal income tax and to the State income taxes of those States in which they are held, an additional burden of from $80,000,000 to $160,000,000 a year would be imposed upon borrowing farmers. (See pp. 9 to 13.)

7. Farm-loan bonds are not held in agricultural States; and such States would receive no advantage to compensate them for the additional interest burden placed on borrowing farmers and the burden of additional taxes to meet the interest on State and local bonds.

8. The volume of tax-exempt securities has been grossly exaggerated. The amount now outstanding does not exceed $12,300,000,000. (See p. 15.)

9. Tax-exempt securities do not materially affect the revenue derived by the Government from the Federal income tax.

(a) Only 1 per cent of the incomes exceeding $5,000 are from tax-exempt securities. They do not constitute to exceed from 3 per cent to 4 per cent of the income producing wealth of the country. (See pp. 15 to 18.)

(b) They are not held, except to a very limited extent, by individuals whose incomes fall in the higher tax brackets.

Two-thirds of the tax-exempt securities are held by corporations, and only one-third by individuals. (See p. 19.)

Those held by individuals are about evenly divided between those in the higher and lower tax brackets. (See p. 19.)

Only 2.58 per cent of the incomes exceeding $50,000 and 5.52 per cent of the incomes exceeding $300,000 are derived from tax-exempt securities. (See p. 16.)

Only 6 per cent of the tax-exempt securities are held by individuals whose incomes exceed $300,000 per year. (See p. 19.)

(c) The decrease of taxable incomes in the higher tax brackets is not due to the investments of great fortunes in tax-exempt securities. (See p. 20.)

10. This amendment will benefit income-tax payers only. Only 2 per cent of farmers and 6.28 per cent of people generally pay Federal income taxes. (See pp. 23–24.)

11. This amendment means taxing agriculture, good roads, education, and public health for the benefit of big income-tax payers. It is taking off the tax where it is distributed in proportion to ability to pay and placing it upon those least able to pay. (See p. 25.)

12. Tax-exempt securities are not depriving private industry of its legitimate share of the annual increase in the investable wealth of the country. Not more than 10 per cent of the wealth annually available for investment is going into tax-exempt securities. (See pp. 26–29.)

13. The volume of tax-exempt securities issued during the last three years is due to delayed construction of necessary public improvements and the high price of labor and material. This is a temporary and not a permanent condition. (See p. 26.)

14. This amendment will release no wealth for investment in productive industry. (See p. 29.)

THE AMENDMENT PROPOSED.

The amendment proposed by House joint resolution reads:

"SECTION 1. The United States shall have power to lay and collect taxes on income derived from securities issued after the ratification of this article by or under the authority of any State, but without discrimination against income derived from such securities and in favor of income derived from securities issued after the ratification of this article by or under the authority of the United States or any other State.

"SEC. 2. Each State shall have power to lay and collect taxes on income derived by its residents from securities issued after the ratification of this article by or under the authority of the United States, but without discrimination against income derived from such securities and in favor of income derived from securities issued after the ratification of this article by or under the authority of such State."

THIS AMENDMENT DESTROYS AN ESSENTIAL ATTRIBUTE OF STATE SOVEREIGNTY.

The Constitution of the United States contains no express inhibition against Federal taxation of State securities, nor against State taxation of Federal securities. Such a tax, by increasing the cost of money borrowed, would constitute an indirect tax levied by the one Government upon the other. The right of both branches of our dual Government to immunity from tax by the other, and to immunity from anything which would in any way hinder, delay, or impede it in procuring the money necessary to the exercise of its power, has been universally recognized as so indispensable to its sovereignty as to be necessarily inherent therein.

The Supreme Court of the United States, the highest court of the several States, and every thinker and writer on our form of constitutional government, from Chief Justice Marshall to Elihu Root and Charles Evans Hughes, have concurred in the recognition of this fundamental principle.

By its terms this amendment grants to the States the same power to tax Federal securities as is granted to the Federal Government to tax State securities. As will be hereinafter shown, the right granted to the States is practically a barren right, and the real effect of the amendment is to authorize the Federal Government to burden and impede the exercise by the States of their right to borrow money for State and local purposes.

RESPONSIBILITY ON CONGRESS.

In voting upon this amendment, Members of Congress should bear in mind that, while acts can be amended or repealed at the next session, no amendment to the Constitution has yet been nullified. The adoption of this resolution is not a mere submission of the question to the States. The adoption of this resolution constitutes the approval of the proposed amendment by Congress and the recommendation of Congress that it be ratified by the States. That the States rely very largely upon such approval and recommendation, and do not give to constitutional amendments that independent investigation and consideration given bills originating in the State legislatures, is shown by the fact that no constitutional amendment proposed by Congress has ever failed of ratification by the States.

This resolution should, therefore, not be adopted unless Congress is convinced beyond a doubt that our form of government should be permanently changed. Such a radical and far-reaching change should not be recommended to the States unless the necessity therefor has been clearly demonstrated. The existence of the evil sought to be remedied should be established by indisputable proof. The remedy proposed should be known to cure the wrong without doing more harm than good.

BURDEN WILL BE ON STATES AND FEDERAL FARM-LOAN SYSTEM.

The rights granted by the amendment to the Federal and State Governments are apparently reciprocal. Each may tax the income from securities issued, after the ratification of the amendment, under authority of the other.

The debt of the Federal Government is, however, decreasing and will not be increased unless we should become involved in another war. The only bonds which are likely to be issued under the authority of the United States, the income of which may be taxed by the States, are bonds of the Federal farm-loan banks. This amendment subjects no property now tax exempt to the State and local general property tax to help relieve the tax burden on the great bulk of the people. Only such States as have income-tax laws can tax the income from these bonds, and they can tax the income of only such bonds as are held within the State.

Practically all of these bonds are owned in a few Eastern States where surplus capital is held.

All bonds issued by States, cities, counties, school, road, irrigation, and drainage districts as well as farm loan bonds will be subject to the Federal income tax. Unless Congress subjects farm loan bonds to the Federal income tax it can not, under the terms of the proposed amendment, tax the bonds of any State or city.

Thus only those States where farm loan bonds are held, and which have income tax laws, will derive any benefit from the amendment. Those States whose growth and development requires the urther use of borrowed money will pay higher local taxes on tangible property to meet the higher interest charges on State and ocal bonds due to the Federal income tax. In agricultural States borrowing farmers will pay a higher interest rate to cover both he Federal income tax and the income tax of States where farm oan bonds are held.

HIGHER INTEREST ON FARM LOANS AND HIGHER LOCAL TAXES.

It is not disputed that to tax the income from bonds issued by the States and their political subdivisions for roads, schools, reclamation, sewers, water, streets, and public buildings, and to tax the income of farm loan bonds, will necessitate an increase in the interest such bonds must bear if they are to be sold. The proponents of this measure do not deny this. In fact they brazenly boast that this measure will divert capital to "productive industry." If this measure is going to divert capital from investment in State, municipal, and farm loan bonds, it will be because such bonds will not be attractive investments unless their interest rates are raised. This also means that unless the interest rate on these bonds is raised the States and municipalities and the Federal farm loan system must get out of the money market and cease to perform such of heir functions as require the use of borrowed money.

EFFECT OF FEDERAL FARM LOAN SYSTEM.

As the interest charged by the Federal farm loan system is based upon the interest paid on farm loan bonds, the borrowing farmers get the benefit of the present tax exemption. Taxing the income from these bonds means higher interest rates on farm loans.

The committee report states that but 5 per cent of the farm mortgages are held by the Federal farm loan system, and that the tax exemption actually operates to increase the interest on farm loans generally. In making this statement a majority of the Ways and Means Committee swallowed whole and without further investigation the statement of Mr. E. D. Chassel, secretary of the Farm Mortgage Bankers' Association of America. Had the Ways and Means Committee taken the trouble to call upon the Federal Farm Loan Board for accurate and official information, they would have learned the absolute falsity of these statements.

The Department of Agriculture estimates the amount of outstanding farm mortgages to be $8,000,000,000. According to official figures published by the Federal farm loan system, the banks in the Federal farm loan system had closed 345,287 loans, aggregating $1,295,101,347, or 16 per cent of the loans outstanding.

Prior to the establishment of the Federal farm loan system farmers could not secure mortgage loans upon terms at all suited to their requirements. Short-time loans meant more renewal commissions, and the farm mortgage bankers and loan agents of life insurance companies refused to loan for periods longer than from three to five years.

The interest charged was all that the traffic would bear; commissions amounted to from 1 to 2 per cent per year in addition to the interest. In the South and West interest and commissions on mortgage loans cost the farmers from 8 to 12 per cent, and in some cases as high as 16 per cent.

The billion and a quarter dollars loaned by the Federal farm loan system is costing the farmers from 5½ to 6 per cent. But the benefit of this system and this low interest rate has not been confined to the 345,287 who borrowed directly from the banks in the farm loan system. The competition of these banks has forced the life insurance companies and farm mortgage bankers in many localities to meet the interest rate charged by the farm loan banks and abolish commissions. This competition has also forced the life insurance companies to make long-time amortized loans. Thus the benefit of the low rate of interest, made possible by the tax exemption of farm loan bonds, is going to all borrowing farmers, and any increase in the interest rate on farm loan bonds, due to the subjecting them to the income tax, will be paid by all borrowing farmers.

It must be borne in mind that the present generation of farmers will, sooner or later, be succeeded by another. When the ownership of a farm changes, borrowed capital is usually necessary to effect the transfer. Thus an increase in the interest rate on farm loans becomes an additional charge upon the whole industry of agriculture and affects not only present borrowers but practically all future farmers.

AMOUNT OF INCREASE IN INTEREST.

It is not necessary to guess or speculate as to the amount by which interest rates on securities, now tax exempt, must be increased, if the exemption is abolished. This amount can be easily and accurately ascertained by comparing the net yield of tax-exempt bonds with the net yield of taxable bonds similarly secured.

We have the net yield of the bonds of the Canadian Provinces and cities sold in the United States to compare with the net yield of our State and municipal bonds. The security is the same. The only difference is that the income from the American bonds is not subject to the Federal income tax, while the income from the Canadian bonds is subject to that tax.

At the present time Canadian provincial and municipal bonds are selling in this country to yield from 5.25 per cent to 6.20 per cent, while our State and municipal bonds are selling at prices which yield the investors from 4.25 per cent to 5 per cent. This shows that the tax exemption makes a difference of from 1 per cent to 1.25 per cent, or a difference of from 20 per cent to 25 per cent in the amount of taxes the States, counties, cities, towns, school districts, reclamation districts, etc., are required to levy to meet the interest on their bonded debt.

If the construction of a schoolhouse costing $100,000 is financed by 20-year bonds, the taxpayers save $20,000 in interest charges because the bonds are tax exempt. The taxpayers of a State are saved $200,000 on every $1,000,000 of 20-year bonds and $300,000 on every $1,000,000 of 30-year bonds.

In the case of farm-loan bonds the saving due to tax exemption is even greater. State and municipal bonds can now be subjected to State taxation. They are now taxed outside of the State in which they are issued. Farm-loan bonds are exempt from both State and Federal taxation. The increase in interest must be sufficient to overcome the benefit of the present exemption from not only the Federal income tax but the State income tax of such States as New York, where they are held by hundreds of millions.

Farm-loan bonds are selling to yield from 4¾ per cent to 5 per cent. Bonds similarly secured by mortgages on real estate but subject to tax are being sold to yield from 6½ per cent to 7 per cent, a difference of from 1½ per cent to 2 per cent.

Mr. George W. Norris, governor of the Federal Reserve Bank of Philadelphia, testifying before the Senate Committee on Banking and Currency, on January 31, 1924, was asked what rate of interest Federal land-bank securities would have to bear in order to be sold if they were not tax exempt. He said, "I am confident that they could not be sold below 5½ per cent. I think that the rate would have to be 6."

As Governor Norris had many years of experience in the bond business prior to becoming a member of the Federal Farm Loan Board, and served as farm loan commissioner from the organization of that board until April, 1920, he is qualified to speak with authority on this question.

Members of Congress in voting on this resolution should realize that if this amendment is adopted it will be necessary for them to vote to increase the maximum interest rate of the Federal land banks to at least 7 per cent.

The eastern mutual savings banks, which are big buyers of farm mortgages, are exempted from the Federal income tax by section 231 of the income tax law. The life-insurance companies holding $1,660,000,000 of farm mortgages, under section 245 of the Federal income tax law, are practically exempt. The competitive interest rate of the Federal land banks, made possible by the tax exemption of their bonds, requires the savings banks and life-insurance companies to pass along the benefit of at least a part of their exemption to the borrowing farmers. If land-bank bonds are taxed, the competitive interest rate will be increased at least 1 per cent, and the savings banks and life-insurance companies will continue to enjoy their exemption with no benefit to the farmer.

If the income from farm-loan bonds is taxed, how can the Federal farm loan system compete with the tax-free life insurance companies and mutual savings banks?

If the tax-free life insurance companies and mutual savings banks are permitted to drive the banks of the Federal farm loan system out of business, what is to prevent them from preying on farmers as they did before the farm loan system was established?

THE EVIL SOUGHT TO BE REMEDIED.

The proponents of this amendment claim that so great a proportion of the wealth of the country is going into tax-exempt securities as to stifle "productive industry" and endanger the revenue-producing power of the Federal income tax law. It is also claimed that the great bulk of these securities are held by the very rich, who are dodging taxes by investing in them. All of the estimates of the Federal revenue lost because of tax exemption are predicated upon the assumption that the great bulk of these securities are held by individuals paying income

taxes in the top brackets. The lone fact that the number and amount of incomes exceeding $300,000 has decreased since 1916 is the only proof offered to sustain any of these conclusions.

TREASURY STATISTICS SHOW THE FACTS.

It is not necessary to indulge in vague assumptions which can not be sustained by proof, nor to speculate and theorize as to what proportion of incomes are tax exempt, nor as to where the tax-exempt securities are held. These facts can be ascertained from official statistics published by the Treasury Department.

In the following pages an analysis of these official figures is presented.

AMOUNT OF TAX-EXEMPT SECURITIES.

It is claimed that tax-exempt securities have reached such proportions that they constitute a menace to the taxing power of the Government. The fact is that they do not constitute 4 per cent of the income-producing wealth of the country.

The only bonds of the United States which are fully exempt are the pre-war issues and the first Liberty loan bonds. The income from not to exceed $55,000 of the other war issues and refunding issues is exempt from surtax until July 1, 1926, after which only the income from $5,000 is exempt.

The outstanding wholly tax-exempt bonds on January 1, 1924, are stated by Mr. Mellon, in a statement issued January 10, 1924, to be as follows:

Issued by—	Grand amount.	Amount held in Treasury or sinking funds and trust funds.	Amount held outside of Treasury and sinking funds and trust funds.
States, counties, cities, etc.	$11,036,000,000	$1,500,000,000	$9,536,000,000
United States Government	2,294,000,000	752,000,000	1,541,000,000
Federal land bank, intermediate credit banks, and joint-stock land bank	1,228,000,000	105,000,000	1,123,000,000
Insular possessions	112,000,000	3,000,000	109,000,000
Total			12,309,000,000

EXEMPT INCOMES ONLY 1 PER CENT OF TOTAL.

The statistics available give us a fairly accurate means of determining what percentage of the total income from the invested wealth of the country is exempt from the Federal income tax. We can also ascertain what percentage of the incomes of individuals in each income class are exempt.

We have no data later than 1920, because statistics of exempt incomes for 1921 have not been published. We have, however, accurate data for 1920; and, in the absence of some proof to the contrary, we have no reason to assume that there has been any radical change in distribution since 1920.

In 1920 the exempt income of individuals, reporting incomes exceeding $5,000, was only 1 per cent of the total incomes reported. This is the real test of the extent of this "menace" to the revenue-producing power of the Federal income tax. Tax-exempt securities constitute only 2.58 per cent of the incomes exceeding $50,000 and only 5.52 per cent of the incomes exceeding $300,000.

The following table shows how these figures are arrived at and the source of the data upon which they are based:

Wholly tax-exempt and all other incomes of individuals reporting incomes over $5,000 in 1920.

Income class.	Wholly tax-exempt income.[1]	All other income.[2]	Percentage of total income wholly tax exempt.
$5,000 to $20,000	$32,805,474	$6,078,681,968	0.54
$20,000 to $50,000	19,697,589	2,291,145,445	.85 (0.62)
$50,000 to $100,000	14,778,287	1,039,710,832	1.40
$100,000 to $300,000	18,854,139	634,999,434	2.89 (2.58)
$300,000 and over	19,349,683	331,023,789	5.52
Total	105,485,172	10,375,561,468	1.00

[1] See p. 383, Report of Secretary of Treasury, 1923.
[2] See Table 7, Statistics of Income, 1920.

When we eliminate earned incomes and consider the income from invested wealth alone, we find that only 3 per cent of such income was derived from the tax-exempt securities.

In the following table "Income of individuals from property" consists of rents and royalties and interest on bonds, notes, etc. It does not include salaries, wages, commissions, bonuses, nor profits derived from business, trade, commerce, partnerships, farming, or sales:

Only 3 per cent of the income from the invested wealth of the country in 1920 was derived from tax-exempt securities.

Income of individuals from property, exclusive of dividends (p. 6, Statistics of Income, 1920)		$2,756,723,116
Net income of corporations, 1920		7,902,654,813
Combined income (equals 97 per cent)		10,659,377,929
Tax-exempt income of individuals from wholly tax-exempt Government bonds, and salaries paid and securities issued by States and minor subdivisions. (See p. 383, Report of Secretary of the Treasury for 1923)	$105,485,172	
Income of corporations from tax-exempt securities (p. 13, Statistics of Income, 1920)	219,976,693	
		[1] 325,461,865
		[2] 10,984,839,844

The following table shows that only 3.59 per cent of the property in estates reported for inheritance taxes in 1922 consisted of tax-exempt securities:

EXHIBIT A.

Summary of property owned by resident decedents subject to and wholly exempt from Federal income tax, as shown by Table A, being compilation of returns of Federal estate tax for 1922, pages 27 to 30, statistics of income for 1921, based on 12,203 returns.

Size of net estate subject to tax.	Wholly tax exempt.			
	United States Government.	State and municipal.	Gross estate.	Per cent of gross estate exempt.
No net estate	$516,122	$1,777,761	$213,985,555	1.07
Under $50,000	720,698	4,224,821	436,147,748	1.14
$50,000–$150,000	1,123,571	5,377,311	432,115,664	1.51
$150,000–$250,000	623,395	3,747,717	218,473,183	2.00
$250,000–$450,000	1,250,775	6,857,359	255,340,337	3.18
$450,000–$750,000	1,509,409	4,977,651	223,047,280	2.91
$750,000–$1,000,000	850,915	2,842,665	117,422,892	3.14
$1,000,000–$1,500,000	1,510,051	5,564,092	170,125,879	4.16
$1,500,000–$2,000,000	1,807,562	3,214,519	99,695,896	5.54
$2,000,000–$3,000,000	2,818,012	10,057,271	132,547,852	9.72
$3,000,000–$4,000,000	1,661,795	4,102,855	65,713,996	8.77
$4,000,000–$5,000,000	2,473,443	991,424	53,685,721	6.45
$5,000,000–$6,000,000	2,274,531	37,443	45,489,540	5.08
$6,000,000–$7,000,000	99,800	494,599	17,624,080	3.37
$7,000,000–$8,000,000	903,750	1,071,178	17,346,808	11.39
$8,000,000–$9,000,000	1,978,813	7,855,610	97,672,152	10.07
$10,000,000 and over	8,433,189	9,681,658	291,937,380	6.21
Total	30,555,832	72,886,534	2,879,371,968	3.59
Under $1,000,000	6,594,886	29,805,285	1,896,532,664	1.92
Over $1,000,000	23,960,946	43,081,249	982,839,304	6.82

Tax-exempt securities are of the class of investments favored by those not engaged in active business. It follows that they would be naturally found to be held in estates to a greater extent than would be general. This table shows that even among those about to die there had been no general conversion of property from taxable to tax-exempt securities between 1920 and 1922.

The following table shows the distribution of tax-exempt securities between individuals and corporations, and among the various individual income classes. The sources of these figures is given in foregoing tables:

Income class individual.	Tax-exempt income United States obligations and State, county, and municipal securities and salaries.	Percentage of total.
		Per cent.
$5,000 to $20,000	$32,805,474	10 (16)
$20,000 to $50,000	19,697,589	6
$50,000 to $100,000	14,778,287	4
$100,000 to $300,000	18,854,139	6 (16)
$300,000 and over	19,349,683	6
Total individual	105,485,172	32
Total corporation	219,976,693	68
Total	325,461,865	100

It thus appears that every assumed hypothesis upon which the propaganda for this amendment is based is false.

The volume of tax-exempt securities is nowhere near what is being claimed.

[1] Equals 3 per cent.
[2] Equals 100 per cent.

As the income from tax-exempt securities is only 1 per cent of the income of individuals from all sources, and as only 3 per cent of the income from invested property was in tax-exempt securities in 1920, and as even estates in 1922 showed 3.59 per cent of tax-exempt property, the "menace" to the taxing power is not apparent. This "menace" or "evil" has not only been grossly exaggerated, but is a pure figment of the imagination of those who have some purpose other than preserving the revenue-producing power of the Federal income tax.

Instead of the most of them being held by individuals who are taxed in the higher brackets, two-thirds are held by corporations, the remaining third generally and fairly evenly distributed among individuals in all income classes. This fact annihilates Mr. Mellon's estimate of the revenue they would produce if taxed, as well as his statement that by investing in them the rich are escaping taxation.

DECREASE IN TAXABLE INCOMES OF $300,000 AND OVER.

Mr. Mellon has rested his case that the investment of big fortunes in tax-exempt securities accounts for the marked decrease in the number of those paying taxes on incomes exceeding $300,000 between 1917 and 1921.

The number of individuals paying taxes on incomes in excess of $300,000, and the amount of surtaxes on incomes in excess of $300,000, for the years 1917 to 1921, were as follows:

Year.	Number of returns incomes exceeding $300,000.	Amount of surtax on incomes exceeding $300,000.
1917	1,015	$201,937,975
1918	627	220,218,131
1919	679	243,601,410
1920	395	134,709,112
1921	246	84,797,344

It will be noted, first, that while the number of surtax payers in this class decreased from 1,015 in 1917 to 679 in 1919 the amount of surtax increased from $201,937,975 in 1917 to $243,601,410. This increase in surtax certainly does not indicate that the decrease in number was due to converting large fortunes into tax-exempt securities. The surtax collected on incomes in excess of $300,000 reached the high-water mark in 1919.

Between 1919 and 1920 the number of surtax payers decreased from 679 to 395 and the surtax collected decreased $108,892,298.

The total net income in 1919 of this class was $440,011,589 (Statistics of Income, 1919, p. 7), and in 1920 it was $246,354,585 (Statistics of Income, 1920, p. 7). The decrease in net income which occasioned the decrease in surtax was $193,657,004.

If this decrease in surtax is due to the conversion of property producing taxable income in 1919 into property the income of which was tax-exempt in 1920, there would be an increase in the tax-exempt income for 1920. Let us assume that to avoid the tax these surtax payers disposed of their taxable investments and bought tax-exempt securities which only produced half the income that was produced by their taxable investments. We should find in the tax-exempt incomes in this class at least $96,800,000. Instead of this we find only $19,349,683 (see table on p. 16), and if we add the income from the partially exempt securities (p. 383, Report of Secretary of the Treasury, 1923), or $2,568,810, we get a total of $21,918,493.

If all of this $21,918,493 of tax-exempt income is to be charged to conversions in 1920, there is no tax-exempt income to be charged to conversions from 1917 to 1919, and we only have 22.6 per cent of the amount necessary to account for the reduction in surtaxes between 1919 and 1920. It is clear that but a small part of the decrease in surtaxes in the higher brackets can be attributed to tax-exempt securities.

Profits from the sale of stock, bonds, real estate, etc., are the important factors which influence the appearance and disappearance of incomes in the $300,000 and over class. A taxpayer with a small annual income may sell property which has increased in value since 1913. The profit on this sale may be sufficient to bring his income for that year to or above $300,000. The fact that he can not do this every year does not show that he is evading taxes by investing in tax-exempt securities. An analysis of the income from this source in the years 1917 to 1921 shows how irregular this source of income is, and also shows the influence of this source of income on the surtax:

Incomes exceeding $300,000.

Year.	Number of returns.	Profits from sales.	Amount of surtax.
1917	1,015	$23,270,128	[1] $201,937,975
1918	627	8,018,771	220,218,131
1919	679	55,144,479	243,601,410
1920	395	8,943,360	134,709,112
1921	246	2,425,171	84,797,344

[1] Surtax based on 1918 rate.

WHY WEALTHY DO NOT BUY TAX-EXEMPT SECURITIES.

The proponents of this amendment have assumed that because the tax exemption is of greatest value to those who pay the highest tax they have invested their fortunes in tax-exempt securities. We have shown that this is not the fact, and the reason is clear.

In the first place, any man who sells his taxable securities, paying the higher rate, to buy tax-exempt securities is betting his income on the perpetual continuance of the high surtaxes which deplete the income from taxable investments.

Furthermore, before a man can convert his fortune into tax-exempt securities he must sell the investments he already owns. Suppose that all the big income-tax payers were to dump their investments on the market, who would buy them? Would it not depress the market to the point where it would be more profitable to hold them and pay the tax?

The fortunes of men of large means are largely invested in the industries and institutions in which those fortunes were made. Those institutions are under their control. To sell these taxable investments means retiring from business, surrendering the control of the railroads, public utilities, banks, and manufacturing plants. You may have seen some individual instances of men retiring from business. That has always been true, but have you observed that the control of finance and industry has passed from the hands that controlled it before 1918? If it has not, the investment in industry must be where it was before, and has not been converted into tax-exempt securities.

LOSS OF REVENUE TO GOVERNMENT.

It is claimed that these tax-exempt securities are growing to such a volume as to endanger the revenue-producing power of our income-tax system.

Just permit me to again call your attention to the fact that this amendment does not authorize the taxation of any of the securities now outstanding.

What revenue will be produced by the taxation of the income from future issues of the class of securities now tax exempt is a matter of mere speculation. It is certain that the abnormal conditions which have produced so large a volume of these securities in the last few years will not continue indefinitely.

The one thing I do want to emphasize is the fact that for every dollar increased burden placed upon those who do pay Federal income taxes, because of the exemption, a vastly greater sum is saved to those who pay taxes on their homes and farms to meet the interest on these tax-exempt obligations.

We know the tax-exempt income for 1920 and its distribution. Had the 1920 tax, which was about 20 per cent higher than our present rate, been paid on the $105,485,172 tax-exempt securities held by individuals, it would have produced $25,614,731.25 of Federal income taxes. At the rate now in force it would have produced about $20,000,000 of revenue.

Applying the present rate of 12½ per cent to the $219,976,693 tax-exempt securities held by corporations in 1920 would have produced income taxes amounting to $27,497,096.62. The total tax which would have been produced at present rates on the tax-exempt securities outstanding in 1920 would amount to about $47,500,000. Since 1920 the amount of tax-exempt securities have increased about one-third, which would add about $15,800,000, giving us a total revenue from this source of approximately $63,300,000. This is a long way from the $200,000,000 Mr. Mellon has told us about, and leads us to believe that Mr. Mellon uses his imagination instead of his lead pencil in figuring estimates on this subject. If the Mellon plan of reducing taxation should be enacted into law it would reduce this revenue by at least one-half, or to about $31,650,000.

Whatever the figure is, it does not represent a loss to the Government. It represents an amount which the income taxpayers are paying in excess of what they would pay if it were being paid by the holders of tax-exempt securities. It is distributed among them in proportion to the taxes they now pay. Eighty-seven per cent of this extra tax is paid by those whose incomes exceed $5,000 per year. Over three-quarters of it is paid by those whose incomes exceed $10,000 per year, 60 per cent of it is paid by those whose incomes exceed $25,000 per year, and 44 per cent of it is paid by those whose incomes exceed $50,000 per year. Ninety-eight per cent of the farmers and 93.72 per cent of the people generally pay no Federal income tax and will receive no benefit from the taxation of tax-exempt securities.

SAVING IN INTEREST BECAUSE OF TAX EXEMPTION.

The 94 per cent of the people generally and 98 per cent of the farmers who pay no Federal income tax all pay either directly or indirectly local taxes in real estate. They are all benefited by the saving in interest on public bonds and farm-mortgage bonds. What does this saving amount to?

It may be summarized as follows:

1 per cent on $9,536,000 State, county, city, and other local public bonds	$95,360,000
1 per cent or $1,541,000,000 Government bonds	15,000,000
1 per cent on $109,000,000 insular possession bonds	1,090,000
1 per cent on $8,000,000,000 farm mortgages	80,000,000
Total	181,450,000

If the income on every dollar of the tax-exempt securities now outstanding were taxed at the present rate, it would only produce about $1 of tax for every $3 of additional burden that would be imposed upon those who pay general property taxes.

SURPLUS FIXES PRICE.

The fact that these bonds are purchased by corporations and persons of small incomes is pointed to as sustaining the position that abolishing the tax exemption would not increase the interest rate.

It is the price which may be obtained for the surplus of anything which fixes the price for the whole. So long as big taxpayers are in the market for this class of security others who desire them for reasons other than tax exemption must pay the price fixed by the big taxpayers' demand. If this demand is eliminated, the market is restricted and a higher interest rate is necessary to attract investors to buy.

PROPORTION OF NEW CAPITAL BEING INVESTED IN TAX-EXEMPT SECURITIES.

It is claimed by those behind this amendment that this radical change in our form of government is necessary because the flood of tax-exempt securities is absorbing the most of the new capital, leaving little for "productive" industry.

It is true that the amount of tax-exempt securities issued in 1921, 1922, and 1923 shows a marked increase over the average of former years. Let us consider the cause and see if it is permanent or temporary.

Beginning with 1914 both public and private construction, except by industries engaged in the manufacture of munitions, was retarded by the increase in the price of raw materials and of labor. At the time we entered the war in 1917 public work of all sorts was stopped. When this work was resumed in 1920 and 1921 it was not alone current requirements which had to be met, but the needs which had been accumulating for several years past. Furthermore, this accumulated work had to be done at inflated prices. Instead of the tax exemption offering a temptation to issue bonds, the inflated prices have retarded all but the most necessary improvements being made.

Those who charge municipal extravagance evidently fail to realize that there are very few cities in this country which can issue bonds without their being authorized by a vote of the people.

Farm land bonds issued during the last two years have averaged about $340,000,000 a year. About this amount will continue to be required to meet the farmers' demand for loans from the farm-loan banks for several years to come. In a few years, however, this demand will be largely met, not only by loans made by the Federal farm-loan banks, but because, as competition compels the life insurance companies and farm mortgage bankers to reduce their rates and grant terms suited to the farmers' needs, the demand on the Federal farm-loan system will decrease.

But notwithstanding these extraordinary temporary circumstances which have temporarily swelled the volume of tax-exempt securities, they have by no means monopolized the money market.

According to the Commercial and Financial Chronicle, the leading financial periodical in this country, the new securities issued during 1921, 1922, and the 11 months ending November 30, 1923 (not including refunding issues), were as follows:

	1921	1922	11 months 1923.
Taxable	$2,233,256,851	$2,818,724,057	$2,671,845,680
Tax exempt	1,348,701,561	1,454,614,805	1,246,947,890
Total	3,581,958,412	4,273,338,862	3,918,793,570

These figures do not tell the whole story. During the last three years the labor supply has been the only limitation on building construction in the United States. The F. W. Dodge Corporation estimates that during 1923 four and one-half billion dollars was spent for this purpose. The Labor Department estimates that building operations amounted to $2,325,817,255 in 1921 and $4,118,412,761 in 1922.

Few buildings are financed by securities handled by bond and stock houses, upon whose operations the Commercial and Financial Chronicle's figures are based.

The most of this financing is done by mortgages given to savings banks, trust companies, building and loan associations, and individuals. Where bonds are issued for this purpose they are usually sold over the counter by the real-estate concern promoting the building.

The annual accumulation of earnings of corporations which are not distributed as dividends represent new capital which is reinvested in the corporate business. By deducting from the net income of corporations, reporting taxable net income, the tax paid, and the dividends reported received by individuals we find that the average of such accumulated profits for the years 1916 to 1921, inclusive, is over $4,000,000,000 per year.

Combining these figures, we summarize the new capital going into property, the income from which is taxable and nontaxable, as follows:

	1921	1922	1923
Taxable securities sold by bond and stock houses	$2,233,256,851	$2,818,724,057	$2,671,845,680
Building construction	2,325,817,255	4,118,412,761	4,500,000,000
Accumulated profits of corporations	4,000,000,000	4,000,000,000	4,000,000,000
Total taxable	8,559,074,106	10,937,136,818	11,171,845,680
Total tax exempt	1,348,701,561	1,454,614,805	1,246,947,890
Total	9,907,775,667	12,391,751,623	12,418,793,570

	1921	1922	1923
	Per cent.	*Per cent.*	*Per cent.*
Taxable	86.4	86.7	90
Tax exempt	13.6	13.3	10

The adoption of this amendment will not stop the issuance of municipal and State bonds. Even at increased rates of interest the work of the States and cities will proceed. It is doubtful whether the amendment will materially affect interest rates on other securities. Even the exfraordinary temporary conditions already discussed have only produced enough tax-exempt securities to absorb 10 per cent to 13 per cent of the new capital available for investment during the last three years.

The tremendous amount of capital absorbed by building operations during the last three years has raised interest rates, and they will continue high until this demand has been met. During the last five years foreign government and municipal bonds have absorbed $1,635,959,532 American capital. When conditions in Europe become settled to the point where American confidence in European stability and credit is restored the foreign demand upon American capital will be without limit.

The adoption of the amendment means that the American States, cities, towns, counties, school districts, irrigation districts, and drainage districts and the American farmer must compete with the speculative builders who are capitalizing high rents and with the foreign governments, cities, and industries and must pay interest rates fixed by their demand for American capital.

The adoption of this amendment means a tax upon education, upon public health, upon free highways, and upon agriculture. It will constitute that kind of interference with the exercise by the States of their respective powers which the Supreme Court has many times declared to be absolutely incompatible with their sovereignty.

RELEASING CAPITAL FOR PRODUCTIVE INDUSTRY.

The most fallacious argument advanced in favor of this amendment is that it will release capital for "productive industry," and that tax-exempt securities are withdrawing capital from "productive industry."

When capital is invested in either taxable or tax-exempt securities the money is spent for the purpose for which the securities are issued. No constitutional amendment can squeeze out of a railroad the money which has been spent for its construction and equipment.

If the owner of a railroad bond desires to convert it into a tax-exempt security, he must sell it. The buyer pays the tax. Neither the railroad nor the Government is affected. Not a dollar has been withdrawn from productive industry nor from taxable incomes.

If the amendment is adopted, the present owners of the outstanding tax-exempt securities must sell them, if they desire to invest in taxable bonds. They will continue to be tax-exempt in the hands of the holders, and the money will still be in the roads, schoolhouses, sewers, in which it was invested when the bonds were issued. Not a dollar will be released and not a dollar of additional income will become taxable.

The only effect the amendment will have on outstanding securities will be to add about a billion dollars to their value.

Mr. GREEN of Iowa. Mr. Chairman, I yield 15 minutes to the gentleman from Minnesota [Mr. NEWTON].

Mr. NEWTON of Minnesota. Mr. Chairman, this is an afternoon when we find the chairman of the Committee on Ways and Means in accord with the gentleman from Alabama [Mr. HUDDLESTON], and I find myself in a somewhat similar situation in that, in part at least, I am in accord with the gentleman from Wisconsin [Mr. FREAR].

The resolution proposes an amendment to the Constitution granting the Federal Government the power to tax State securities without discrimination in favor of Government securities. Corresponding power is given the several States of the Union to tax securities of the Federal Government, providing there is no discrimination in favor of the securities of the particular State. In brief, it is a grant of power to the National Government and to the various State governments to enable them,

following its ratification, to prevent the further issuance of tax-free securities. I shall support this amendment because it is a move against the great evil growing out of the issuance of these billions of dollars' worth of tax-free securities.

Mr. Chairman, the situation disclosed by the report of the committee based on figures furnished by the Secretary of the Treasury show that there is around $12,000,000,000 invested in this country in tax-free securities. It shows that this amount is increasing over $1,000,000,000 yearly. Men of great wealth are unquestionably, because of the high surtaxes, investing their money in State and municipal bonds and thereby escaping taxation. In 1917 there were three and one half million income-tax returns made. In 1921 this had increased to six and one-half million. Those paying on over $300,000 per year, however, had decreased from 1,015 to 246. Gentlemen, this situation will threaten our existence if we do not take steps to prevent it. Every man should contribute according to his means toward the support of government. We are fast creating a class that, although amply able, pay nothing. It is wrong.

It is quite evident that the situation is most serious. It must be equally evident that it will take some time following the passage of this resolution, through both Houses of Congress by a two-third vote, before it is ratified by the legislatures of 36 States of the Union. While the resolution is pending here, and while it is awaiting ratification by the several States, tax-exempt securities will continue to be issued. In addition, the possibility of the enactment of this prohibitory provision will stimulate the issuance of these securities.

This brings up the question whether a constitutional amendment is really necessary in order to meet the situation. If it is not, then clearly we should end this issuance of tax-exempt securities through appropriate legislation.

The Supreme Court of the United States, since the passage of the sixteenth amendment to the Constitution, has, in several opinions, construed that amendment. In their opinions there is no doubt but what the court has assumed an attitude which would lead one to believe that further constitutional amendment is necessary before the Federal Government is given the power to tax the income of the securities of the State governments and their agencies.

However, a careful reading of those decisions, it seems to me, shows that that particular question has never been put up to the court. There is, therefore, fair reason to believe that if this was done, and the case was properly presented, the court might so hold as to preclude the necessity of passing this proposed amendment.

Under the Continental Congress and the Articles of Confederation the then Federal Government was powerless to lay and collect taxes. It could but requisition the several States. It was in a position therefore where it could contract obligations but could not discharge them. This was probably the greatest source of weakness in the then Government. The Constitution endeavored to correct this, and it contained the following express grant of power to the National Government:

> The Congress shall have power to lay and collect taxes, duties, imposts, and excises; to pay the debts and provide for the common defense and general welfare of the United States.

It will be observed that the most sweeping language is used in the grant of this power. Hamilton in the Federalist referred to it as unqualified. The Supreme Court of the United States has repeatedly held that this grant embraces every conceivable power of taxation subject only to the following exceptions and qualifications:

> Article I, section 9, claim 5: No tax or duty shall be laid on articles exported from any State.

This is the only exception.

The modifications or qualifications upon this general and all-inclusive grant are as follows:

> Article I, section 8: All duties, imposts, and excises shall be uniform throughout the United States.
>
> Article I, section 2: Representatives and direct taxes shall be apportioned among the several States which may be included within the Union according to their respective numbers.
>
> Article I, section 9, clause 4: No capitation or other direct tax shall be laid unless in proportion to the census or enumeration hereinbefore directed to be taken.

To sum it up: First, the Constitution precludes the levying of any export tax. This is the only prohibition. As to all other taxes, the Constitution divides them into two great classes, direct and indirect. The rule of apportionment is applied to the direct taxes and the rule of uniformity is applied to the indirect taxes, consisting of duties, imposts, and excises. There is no doubt, therefore, that the right to levy an income tax was clearly within the original grant of power. Under just what classification did it belong? Was it a direct tax? If so, in levying it it must be apportioned among the several States according to population. If, on the other hand, it was an excise tax, it only must be uniform. Very early, therefore, there arose the question as to what was a direct tax and what was an excise tax. The question was first presented to the Supreme Court of the United States in the case of Hylton *v.* United States (3 Dall. 171).

Congress had levied a tax on carriages "for the conveyance of persons." The court held that this was an excise tax and therefore did not need to be apportioned, because it was not levied directly on property because of ownership, but, rather, on account of its use. It also held "direct taxes included only those taxes which were directly levied on real estate because of ownership." From that time on where Congress levied a tax directly on real estate or personal property, such as slaves, because of ownership, apportionment was provided for.

During the Civil War Congress levied income taxes. The Supreme Court of the United States sustained these as being excise taxes on the grounds that they were not taxes directly on property because of ownership. Therefore these income taxes did not have to be levied on the basis of apportionment among the several States. Several years following the ending of the Civil War these laws were repealed, and for the period of about two decades there was no income tax law upon the Federal statute books.

The revenue act of 1894 levied a tax on income from all classes of property and other sources of revenue. The law provided no apportionment on the then well-established theory that income taxes were excise taxes and therefore required only uniformity. Prominent writers upon constitutional law had all affirmed this theory. Notwithstanding this fact, these income taxes were contested. The question came before the Supreme Court of the United States in Pollock *v.* Farmers Co. (157 U. S. 429; 158 U. S. 601). This act provided for the taxation of income from the following:

1. Rentals, etc., from real estate.
2. Interest and other incomes from personalty including intangibles.
3. Interest and other incomes derived from State agency securities.
4. Salaries of officers of States and State agencies.

The validity of each and every one of these was under consideration, and was passed on by the Supreme Court in the Pollock case. Much to the surprise of almost everyone, the court held these taxes to be invalid. In doing so it practically reversed the accepted interpretation of a century. The court held that the provision for apportionment as to direct taxes was adopted for the purpose of avoiding any opportunity of burdening the accumulation of property by taxation except upon the basis of an apportionment among the several States. While the tax was held to be nominally upon income, they held that it was actually upon the property from which the income was derived. The court also held that if it were to construe it as an excise tax it would permit the bringing about of the very evil which the rule as to apportionment was designed to prevent. Provision was made in the same act for a tax on incomes from professions, trades, and so forth. It was admitted by all concerned that these were clearly excise taxes.

In so ruling, the court disposed of the question of the validity of the tax upon income from real estate and from personal property, including that of intangibles. As to the other of the two propositions, the court held that a tax upon the income derived from the interest of municipal bonds is a tax upon the power of the State and its instrumentalities to borrow money and that it was therefore void. They did so notwithstanding the fact that there existed then, and there exists to-day, a right upon the part of one State to tax the income of a resident derived from a State or municipal bond or other securities of a State agency. Bear in mind, my Democratic friends, that as the gentleman from Alabama, Mr. HUDDLESTON, well said, this was a Democratic law passed at the instance of Democratic leaders and this law taxed the income of State and municipal bonds. Your great leaders advocated the reenactment of this law in the debates upon this amendment.

Most lawyers were very much surprised at the decision. It was by a divided court of five to four. The justice of the income tax appealed to most people. An income tax was simply impossible when compelled to be apportioned among the several States. The result was agitation and a persistent effort to so amend the Constitution as to clothe the Federal Government with the power which the Supreme Court in the Pollock case said it did not have.

President Taft in June, 1909, in a message to Congress, said:

I therefore recommend to the Congress that both Houses, by a two-thirds vote, shall propose an amendment to the Constitution, conferring the power to levy an income tax upon the National Government without apportionment among the States in proportion to population.

The day following there was introduced and referred to the appropriate committee of the Senate the following proposed amendment:

The Congress shall have power to lay and collect direct taxes on incomes without apportionment among the several States according to population.

It is apparent that if this had been the amendment that was adopted it would not take in the taxation of the income derived from State securities.

Some 10 days later this committee reported a resolution to the Senate wherein they changed the language so that the proposed amendment read as follows:

The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration.

The word "direct" was omitted and the phrase "from whatever source derived" was inserted. The bill passed the Senate and went over to the House, and likewise passed the House in that form. It was then later ratified by the requisite number of States and became a part of our organic law.

It must be perfectly apparent that the purpose of its enactment was to remove certain limitations upon the taxing power of the National Government, as decided in the Pollock case. Therefore its scope should be construed in the light of what the amendment was designed to accomplish. In the Pollock case the court held that the tax on incomes from real and personal property was invalid because it was in effect a tax upon the property, therefore a direct tax, and should have been apportioned.

In the same decision they also held that the tax on income of State securities and the salaries of State officers was invalid because there was a lack of power to levy the tax from that particular source of income. It will be observed that one question went to the manner of exercising the power of taxation, while the other went to the question of the power itself.

There can be no question now that apportionment is not required as to income taxes. It would likewise seem true that in view of the all-embracing phrase, "from whatever source derived," there would be no doubt as to the right of the Federal Government to make the levy from "any source," even if that source was the State. Both propositions were litigated and most thoroughly considered and elaborate opinions were handed down. All of this caused great discussion, and finally the adoption of this sixteenth amendment.

Yet, notwithstanding all of this, it is claimed that there still exists no power in the National Government to tax without discrimination the securities of any State. It is claimed that the only purpose of the amendment was to remove the necessity of apportionment and that the effect of the sixteenth amendment is that and that alone. Which construction is the proper one?

First, let us examine the grant itself. In form it is a specific grant of power to Congress to "lay and collect taxes on incomes." What incomes? Obviously, any and all incomes, regardless of their source, because of the inclusion of the words "from whatever source derived." Congress used the plainest kind of language, which could not be more inclusive. The adoption of this amendment followed a decision involving the taxing of incomes of State securities, where the court held that we could not tax incomes from those sources. These all-embracing words, therefore, must have been placed in the amendment to mean something. It could hardly be presumed that Congress placed them there for no purpose whatever.

However, it is claimed that under our scheme of government National and State governments are each sovereign in its sphere and that it was never contemplated that the National Government should ever have the power to tax State governments and restrict or destroy their borrowing power. There is no question but what the court held in Collector *v.* Day, Eleventh Wallace 132, that there was no power to tax the income of a State officer for these reasons. While the taxing of the income of a State security is not directly a tax on the property, yet it is a restriction upon the borrowing power of the State or its agency. There can be no question, therefore, that prior to the adoption of the sixteenth amendment the courts had held that the National Government could not tax the income of the property of a State agency even if there was no discrimination in favor of other property.

In the Pollock case the Supreme Court merely affirmed previous decisions of the court in this respect. But this was before the sixteenth amendment had been adopted. It was this decision which started the movement for the sixteenth amendment. Surely, in construing this amendment we should construe the words in accordance with their ordinary meaning and credit Congress with choosing the language of an amendment to our fundamental law carefully, and as meaning what it says. We should bear in mind the evil which the amendment was designed to remove. Two evils were very clearly set forth in the Pollock case, which I have discussed at length. Furthermore, the original proposal from the President was for the power "to levy an income tax without apportionment." The original resolution proposing the amendment gave Congress "the power to lay and collect direct taxes on incomes without apportionment." It is apparent that if the amendment had been adopted in this form the only effect would have been to remove the necessity of apportionment. The resolution was referred to a committee. After deliberation, it recommended the granting of power "to collect taxes on incomes, from whatever source derived." The report of the committee was adopted and the amendment was ratified in this form. Surely, the striking out of the word "direct" and the insertion of the words "from whatever source derived" were done designedly then for the purpose of removing the limitations not only upon the method of raising taxes, but upon the power itself.

Common sense, the ordinary rules of construction, and the consideration of the circumstances leading up to the adoption of the amendment, all sustain this position. It appears, however, that the Supreme Court since the adoption of the amendment has in several different cases given expression to opinions that the sixteenth amendment granted no additional power to tax but merely removed the necessity of apportionment. The expressions clearly indicate the then impressions of the court. However, the specific question as to the taxability of the income of State securities was not involved in any of these decisions, and as to this particular question these expressions are mere obiter.

Let us examine these cases. The first was that of Brushaber *v.* Union Pacific Railway (240 U. S. 1, 18). This case involved the income of the railway company and was a general attack upon the 1913 income tax law. In reference to the sixteenth amendment the court said:

It is clear on the face of this text that it does not purport to confer power to levy income taxes in a generic sense—an authority already possessed and never questioned—or to limit and distinguish between one kind of income taxes and another, but that the whole purpose of the amendment was to relieve all income taxes when imposed from apportionment from a consideration of the source whence the income was derived.

The court then proceeds to say that the amendment was passed to do away with "the principle" upon which the Pollock case was decided. In this connection it must be borne in mind that there were two principles involved in the Pollock case. One pertained to apportionment and the other referred to the power of the Federal Government to tax the income of a State security. In the Brushaber case the court very clearly forgets this latter principle.

The Brushaber case in no wise involved any tax upon the income of States or State agencies or the salaries of their officials. The expression which I have quoted was therefore obiter dictum. It is therefore not controlling, for this expression was in no wise necessary to the determination of the particular proposition which the court was considering. I quote in this connection from the statement of Judge Cooley, found in his Principles of Constitutional Law, second edition, pages 152 to 154, inclusive:

Neither, as a rule, will a court express an opinion adverse to the validity of a statute unless it becomes absolutely necessary to the determination of a cause before it. Therefore, in any case where a constitutional question is raised, if the record presents some other and clear ground upon which the court may rest its judgment, and thereby render the constitutional question immaterial to the case, the court will adopt that course, and the question of constitutional power will be left for consideration, until a case arises which can not be disposed of without considering it, and when, consequently, a decision upon such question will be held unavoidable.

The court has also construed the sixteenth amendment in Staunton *v.* Baltic Co. (240 U. S. 103), Tyee *v.* Anderson (240 U. S. 115), Peck *v.* Lowe (247 U. S. 165), and Eisner *v.* Macomber (252 U. S. 189, 204). The question of State securities or the extension of power of taxation to new subjects were in no wise involved in any of those cases.

These were followed by the case of Evans *v.* Gore (253 U. S. 245). This was the first case to come before the court following the adoption of the sixteenth amendment where there was involved an income which was clearly not taxable before the adoption of the amendment even if there was an apportionment. This case involved the question of the taxing of the salary of a Federal judge, whose appointment was made before either the amendment or the law took effect. This case clearly raised the question of the taxing power as to new subjects, to wit, the salary of the United States judge. Article III, section 1, of the Constitution provides that—

> The judges shall at stated times receive for their compensation a compensation which will not be diminished during their continuance.

This provision, of course, was still in the Constitution when the sixteenth amendment was adopted. The question before the court then was whether the sixteenth amendment, pertaining to taxation, repealed by implication an existing provision relating to the Federal judiciary. Upon its face the language of course is broad enough to cover it. The minority of the court held that it did cover it. The amendment, however, related to taxes. The existing provision related to an entirely different subject matter than the judiciary. A repeal will ordinarily not be applied by implication in such a case for perfectly obvious reasons. A majority held that the tax diminished the judge's salary and was invalid. In so deciding, the court expressed this opinion in reference to the amendment:

> Thus the genesis and words of the amendment unite in showing that it does not extend the taxing power to new or excepted subjects, but merely removes all occasion otherwise existing for an apportionment among the States of taxes laid on income, whether derived from one source or another.

There is no mistake in the language or the then impressions of the court, but the question of taxability of incomes upon State securities and salaries of State officials was not involved. The only question was as to the conflict between the two provisions of the Constitution, one of which clearly antedated the other. The sole effect of the decision was to hold that there was no power to tax the salary of a Federal judge.

These cases, from which I have quoted, clearly indicate the impressions of the court. It is clear, however, that they have never had put up to them the straight question itself, and therefore have never decided whether, under the sixteenth amendment, the Federal Government has the power to levy a tax upon the income derived from State securities. We all appreciate that the building up of a class of citizens who pay no taxes into the Federal Treasury, notwithstanding their great wealth and the great benefits they derive from our Government, is a great evil. We should stop it as quickly as possible. We know something of the difficulties and delays that will ensue in getting a ratification for this amendment. We know how many more securities will be sold while all of this is pending, thereby increasing existing evils. It does seem to me, therefore, that this question is of such great importance that we ought not, because of this dicta that we find in several of these cases, to let this whole matter go by default and assume that there is no other way out excepting by constitutional amendment. Let us pass the amendment and put it on its way toward ratification. In the meantime, however, let the Committee on Ways and Means recommend a specific provision taxing the income from these State securities so that the matter can be presented squarely to the Supreme Court for its decision.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. NEWTON of Minnesota. One minute more.

Mr. GREEN of Iowa. I yield the gentleman one minute.

Mr. NEWTON of Minnesota. I want to say to you gentlemen gathered here this afternoon that there is not a country over in Europe, hardly a country, that does not tax every one of its own securities, treating it for taxation purposes just the same as it treats the securities of corporations and private concerns.

Mr. GREEN of Iowa. The gentleman does not need to make any exception; there is not another country in the wide world.

Mr. CHINDBLOM. Will the gentleman yield?

Mr. NEWTON of Minnesota. I will yield to my friend from Illinois.

Mr. CHINDBLOM. Does the gentleman agree that the effect of the decision of Evans *v.* Gore—in fact the language of the court was that the sixteenth amendment did not extend the taxing power to new and excepted subjects. Was not that the language of the decision? Is not that the necessary element of the decision, and did not the Supreme Court, in fact, say that the words "from whatever source derived" did not add any new subject of taxation to the power of Congress?

Mr. NEWTON of Minnesota. The Supreme Court said that that language did not extend the taxing power to new subjects, as I recall it. It based that statement upon the principle laid down in the Pollock and Brushaber cases. I have tried to argue here before the committee that in the Pollock case there were two principles of law passed upon, and two principles of law decided, and so whatever statement they made was not based upon a fair consideration of what the Pollock case decided.

Mr. CHINDBLOM. If the gentleman will permit, the taxing of the salary of a judge was not a new subject which, prior to that time, the Supreme Court had held Congress did not have the power to tax, is not that——

Mr. NEWTON of Minnesota. That the Congress never had taxed, but the court itself had never, as I recall it, passed upon the question that authority had never been granted. I think I am right in that.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. RAINEY. I yield 15 minutes to the gentleman from New York [Mr. OLIVER].

Mr. OLIVER of New York. Mr. Chairman, I realize it is late, and I am rather happy there are a few here, because this is the first address I have made to the Congress. I speak on this important subject with a very strange feeling. I speak from the great county of the Bronx, New York State, and I say my feeling is strange because recently the history of New York State has been filled up with battles over the doctrine of whether the State of New York shall rule the cities or the cities shall rule themselves. The great county of the Bronx, a part of which I have the honor to represent, fought a fight of some 10 years' duration in order to secure countyhood, and since 1914 we have fought against every effort to restrict the local self-government we achieved. If I may be permitted to advert to the recent political history of the State of New York, I call attention to the great governor, Governor Miller, of the Republican Party, who attempted a few years ago to take from the city of New York and from all the cities of the State, by means of State legislation, the power of control over the means of transportation in the cities and to center that control in State officers.

He used practically the same arguments that are being used here, that cities are extravagant; that they mismanage things; that they ought to be checked in policy and purse. When the controversy was fought out in the city of New York Mayor Hylan, who supported the home-rule issue, was elected by the greatest majority given any man who had ever run for mayor. When the great governor himself a year later fought his campaign against the doctrine of home rule for cities and for the rulership of the cities by the State he fell from his high position, with a majority against him of 350,000, and yielded his place to the great democrat, Governor Smith, who advocated the doctrine of home rule for cities. It is at this time with this history in mind and with the fact in mind further that following the defeat of Governor Miller the city of New York and all the cities of the State in the last election adopted a home-rule-for-cities amendment to the constitution of the State of New York by 400,000 majority in the State of New York, and the city of New York gave it almost a unanimous vote. I come here to speak upon this proposition and to vote upon this proposition with no hesitancy in saying that when the question of local home rule for State and city government is before the Congress my people have commanded me through their action to vote for local self-government and against granting power to any other government to interfere with it or hamper it in any way.

I can not question the mandate. It is too plain. What do I find I am called to vote upon?

Mr. CHINDBLOM. Mr. Chairman, will the gentleman yield there?

Mr. OLIVER of New York. Yes.

Mr. CHINDBLOM. Does the gentleman conceive his obligation as a Member of this House limits him in his right and in his duty and in his power to vote here with reference to the best interests of the entire Nation rather than with reference to the interests of a local community? I ask that question generally, in view of what the gentleman said.

Mr. OLIVER of New York. This is a theoretical question. We could debate on it for the rest of the evening, perhaps. But I will say this in response to the gentleman's question, that when a constituency has signified its mind and the entire population of a State has declared that it is devoted to the proposition of local home rule for cities, then I take it that each member of the New York delegation ought to be influenced in his vote by the doctrine entertained by the people who elected him.

Mr. CHINDBLOM. I respectfully dissent for my own part.

Mr. OLIVER of New York. I can not, of course, bind the gentleman. I am making my argument which shows my reason for casting my vote. What is the proposition before us? It marks a departure from a governmental policy which is as old as the Nation. By the present Constitution the Federal Government is sovereign in its sphere and State governments are sovereign in their spheres. They stand as partners in government, yet each is sovereign. The pending bill seeks to make a new America where the Federal Government shall have power to cripple the States and their arms and agencies, the cities, towns, and counties by the power of taxation; and the States shall have the power to cripple the Federal Government by applying 48 systems of taxation against the credit of the Federal Government in peace or war for all time to come. Instead of the partnership of old we have the new relation, as proposed in this bill, of making each subordinate to the will of the other; instead of sovereigns they become subordinates; instead of friends, as they are now, perhaps they will provoke each other to enmities.

The proposition that interests me as I come from the struggle for home rule of my own city is the effect of the power given under this bill to the Federal Government to place a tax on the income derived from bonds issued by city governments. The report of the Ways and Means Committee of the House of Representatives shows that the amendment is based largely upon the opinion:

First. That extravagance in municipal government can be prevented by the use of the proposed power of Federal taxation.

Second. Because securities now issued by cities are tax exempt, municipalities are encouraged to own and control all kinds of public utilities, thereby escaping their proper share of Federal taxation.

I quote from the report of the Ways and Means Committee:

> The existence of conditions that enable any municipality or political subdivision to issue tax-free securities is a constant temptation to issue such securities in larger amounts than is necessary. It amounts to a subsidy offered to every such corporation with regard to its own direct borrowing. It also operates as an inducement to every municipality to have all kinds of public utilities owned and controlled by the municipality itself, thereby escaping its proper share of Federal and State taxation. * * * When so large an amount is invested in tax-exempt securities the inevitable result is that it is more difficult to obtain mony for ordinary private business and that investment in productive business is discouraged.

Furthermore, the Secretary of the Treasury, on January 16, 1922, in writing to the Ways and Means Committee about the subject of tax-exempt State securities, informs that committee as follows:

> This process tends to divert investment funds from the development of productive enterprises, transportation, housing, and the like into nonproductive or wasteful State or municipal expenditures, and forces both the federal Government and those engaged in business and industry to compete with wholly tax-exempt issues, and on that account to pay higher rates of interest.

On January 15, 1924, the Secretary of the Treasury, in a public letter, expresses the following opinion:

> High surtaxes are no more than a bonus at the expense of the Federal Government to the State and municipal borrower, giving a wholly artificial value to tax exemption. A removal of this artificiality will restore all securities to natural conditions. True, State and municipal extravagance will be curtailed, but they will sell on their merits to the same class of investors who heretofore favored them.

President Coolidge in his message to Congress on December 6, 1924, said:

> Another reform which is urgent in our fiscal system is the abolition of the right to issue tax-exempt securities. The existing system not only permits a large amount of the wealth of the Nation to escape its just burden but acts as a continual stimulant to municipal extravagance. This should be prohibited by constitutional amendment.

It appears from these expressions of opinion by leading Federal officials that the time has come when the Federal Government by the power of taxation shall control as far as it can the development and growth of State and city governments. In other words, the Federal Government is not only satisfied that it has been economically conducted itself, but that it has reached such a stage of economic perfection that it can now undertake by taxation the supervising of the expenditures of States and municipalities.

The Federal Government, according to the report of the Committee on Ways and Means, regards the operation and ownership of public utilities by municipalities as an evil that should be destroyed by the power of Federal taxation. According to the Secretary of the Treasury, money invested in State and municipal developments is invested in a nonproductive enterprise. The building of schoolhouses, the construction of great water-supply systems, the maintenance of hospitals, police, and fire departments, the opening of parks, the construction of streets, the maintenance of departments of government to enforce humane legislation are all classed as nonproductive enterprises.

He seems to regard the aforementioned functions to which State and city governments have dedicated themselves as less essential to the national prosperity than the digging of oil wells, the operation of mines, the running of mills, and the administration of banks.

It has therefore been proposed that the Federal Government in the future, by the power of taxation, should make the maintenance of State and city governments more costly and difficult.

I find from the report of the Committee on Ways and Means, which, after all, is the declaration of those who propose this proposition, that they first intend to meddle in the local policies of city governments. The city of New York has invested $300,000,000 in subway bonds and has determined upon a policy of municipal operation of transportation facilities, as far as it can work out that proposition; and now I find that one of the evils at which this amendment is aimed is to tax the city of New York or any other city that wants to operate a municipal transportation system or other public-service franchise rights and to make it more difficult and more expensive for those cities to do that. For my part, I am going to support the city of New York against the efforts of the Federal Government. I supported New York City against the same effort of the government of the State of New York.

I do not believe that the cities have been extravagant. I do not believe that they should be curbed by Federal taxation. I do not believe that the taxing power should be used for the purpose of controlling the policies of those cities. The city governments and State governments of this country all through the period of the war suspended activities because of loyalty to the Nation. Everywhere they were told: "Do not build; do not dig subways," as we were told in New York, "because the war is on." The cities were thoroughly loyal. Now the war is over and we are trying to catch up. When they quote the amount of bonds issued in 1922 they forget that the people in the cities and the States were loyal to the Government in time of war, and that those cities and States must now make progress, and the cost is just double now what it would have been had we worked under pre-war conditions. We do not want interference from anybody with our necessary enterprises, and as a member of the delegation from New York I will say this: I do not want to have to meddle in, criticize, or supervise the enterprises of any city or town or county in the United States.

I regard it as none of my business. As a Member of Congress I am not going to meddle with Boston, or Philadelphia, or New Orleans, or Galveston, or San Francisco, or Denver; I do not care what they are doing. It is their business. I trust them to work out their problems. Their men back home are laboring on the tasks of local government. In the city of New York we are solving the stupendous questions of municipal statesmanship through our great mayor and the officials of our city government. Their administration has been approved by the people of the city of New York. If the Congress of the United States is going to enact a taxation law to hamper them and make the cost of city government greater, or meddle with the policies they determine upon, I say that it will be a shame and an outrage.

You pay them with what? You give the States the power to tax the income on Federal bonds. Why, I tell you, if this amendment had been in operation during the war there would not have been a State in the Union that would have dared to put a penny's worth of tax on the income from any Federal bond. That State would have been driven out of the Nation had it dared to put a tax on the success of the army at the front.

Mr. BLANTON. Will the gentleman yield?

Mr. OLIVER of New York. Yes.

Mr. BLANTON. The committee chairman says that they are after the tax dodgers, some of them in the gentleman's city, but the chairman admits, at the same time, that these same millionaire tax dodgers can not absorb even half of the $15,000,000,000 now existing; then if they can not absorb it, and if during the next 20, 30, or 40 years they are going to

continue to be tax dodgers, what service is the chairman of the committee rendering to the country in passing this amendment? He does not reach them, and they are going to continue to be tax dodgers for the next 40 years.

Mr. GREEN of Iowa. The gentleman is indulging his imagination as usual.

Mr. BLANTON. But my imagination usually reaches the gentleman from Iowa.

Mr. OLIVER of New York. I hope the gentleman will not take too much of my time, as I have but a few minutes.

I want to put in the RECORD my protest against this amendment, because I believe this: That the power of the Federal Government comes from the States, and it has no right now to turn around and subordinate the States, and the States have no right to make a subordinate of the Federal Government. The cities of this country existed before the Federal Government existed, and the grandeur of America came from the development of the cities throughout this land and they have a heavier burden than even the Federal Government. In time of war, of course, the Federal Government lifts itself up supreme, but in time of peace the city government has more to do with the health and well-being of the people of this country than the Federal Government.

The people in my district are asking for $200,000,000 or $300,000,000 worth of subways to be extended up our way, and all over the city there is a demand for schools. We can not talk in sums of $1,000; we have got to talk in sums of $200,000 and $300,000 a school, and in terms of millions when we make improvements city wide. We have a budget there of $353,000,000 a year. We have only started to build. When you make our Government more burdensome than it is and under the guise of a tax-reduction proposition place a double taxation there, I tell you that the spirit which defeated Governor Miller and elected Mayor Hylan will be turned upon the proposition, and upon everybody who proposes it.

We want local self-government in New York; we do not want to govern any city in the United States except our own; we will not stand with a group of meddlers or critics who are expressing dissatisfaction with local government in Kansas, California, Illinois, Alabama, or Massachusetts, or any other place; we want to be left to ourselves and we will work out our destiny, and we have confidence in the ability of all other States and cities to govern themselves.

Our metropolitan district of 20,000,000 people and our city of 5,600,000 people are trying to render service, not to ourselves alone, but as an instrumentality of the world trade we are trying to build up to meet the obligations cast upon us by every nation on earth. We have $300,000,000 invested in dock property in the city of New York; $300,000,000 in subways; $700,000,000 in our water system; the budget for our schools in 1922 was $88,000,000; 1,000,000 children attend every day. Every dollar in taxes you put on us makes our burdens greater and our ability to serve the Nation less. Our people are not all from Wall Street; the people of Wall Street are people from all over the country, its investors and operators are from everywhere. There are millions of poor in New York. They are paying their taxes bravely and we have the best government on earth.

We want local self-government, and while we revere the Nation we will not have you take one jot from what we have and all we have won in our own elections in the great city of New York. With respect to the Nation, if it wants the money of New York in time of war we will give it every single dollar; the State gave it 465,000 men for the Army and Navy. If you want something for the Nation's honor, tax the city hall and take down every building we have, but when you come to the point of asking the privilege of taxing the city of New York for peace purposes, for the purpose of spending more money on roads in other States, or spending it under the public education bill that carries $100,000,000 to build up educational systems elsewhere, I say we are against it. We are paying our own way. We are fighting our own fight. We are not asking the Nation to help us, and my vote shall never permit the Nation to interfere with us. I oppose this because I oppose the changing of the relationship between the States and the Federal Government just because some economists have come forward and set up a set of figures and statistics. The Constitution was not based upon statistics, but upon the principles of freedom.

The CHAIRMAN. The time of the gentleman from New York has expired.

By unanimous consent, Mr. OLIVER of New York, was given permission to extend and revise his remarks in the RECORD.

By unanimous consent, Mr. NEWTON of Minnesota was given permission to revise and extend his remarks in the RECORD.

Mr. GREEN of Iowa. Mr. Chairman, I move the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. LEHLBACH, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration House Joint Resolution 136 and had come to no resolution thereon.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted to Mr. TAYLOR of Tennessee, for six days, on account of important business.

RESIGNATION FROM A COMMITTEE.

The SPEAKER. The Chair lays before the House the following communication:

FEBRUARY 7, 1924.

Hon. F. H. GILLETT,
Speaker House of Representatives, Washington, D. C.

DEAR SIR: I hereby resign as a member of the Committee on Pensions.

Yours very truly,

J. E. RANKIN.

The SPEAKER. Without objection, the resignation is accepted.

ENROLLED BILL SIGNED.

The Committee on Enrolled Bills reported that they had examined and found truly enrolled bill of the following title, when the Speaker signed the same:

H. R. 657. An act granting the consent of Congress to the boards of supervisors of Rankin and Madison Counties, Miss., to construct a bridge across the Pearl River in the State of Mississippi.

OCCUPATION OF VERA CRUZ, MEXICO (S. DOC. NO. 33).

The SPEAKER laid before the House the following message from the President, which, with the accompanying papers, was read and referred to the Committee on Foreign Affairs:

To the Congress of the United States:

I transmit herewith a report by the Secretary of State requesting the submission anew to the present Congress of the matter of claims arising out of the occupation of Vera Cruz, Mexico, by American forces in 1914, which formed the subject of a report made by the Acting Secretary of State to the President in September, 1922, and a message of President Harding to Congress dated September 14, 1922, which comprise Senate Document No. 252, Sixty-seventh Congress, second session, copies of which are furnished for the convenient information of the Congress.

Concurring in the recommendation made by President Harding that in order to effect a settlement of these claims the Congress, as an act of grace and without reference to the legal liability of the United States in the premises, authorize an appropriation in the sum of $45,518.69, I bring the matter anew to the attention of the present Congress in the hope that the action recommended may receive favorable consideration.

CALVIN COOLIDGE.

THE WHITE HOUSE,
Washington, February 7, 1924.

INTER-AMERICAN ELECTRICAL COMMUNICATIONS COMMITTEE (S. DOC. NO. 34).

The SPEAKER also laid before the House the following message from the President, which, with the accompanying papers, was read and referred to the Committee on Foreign Affairs:

To the Congress of the United States:

I transmit herewith a report by the Secretary of State concerning a meeting of the Inter-American Electrical Communications Committee, which will open at the City of Mexico on March 27, 1924, pursuant to a recommendation adopted by the Fifth International Conference of American States held at Santiago, Chile, March 25 to May 3, 1923. I request of Congress legislation authorizing an appropriation of $33,000, or so much thereof as may be necessary, for the purposes of participation by the Government of the United States in the said meeting in the manner recommended by the Secretary of State.

CALVIN COOLIDGE.

THE WHITE HOUSE,
Washington, February 7, 1924.

PERMISSION TO SIT DURING SESSIONS OF THE HOUSE.

Mr. GRIEST. Mr. Speaker, I ask unanimous consent that the Post Office Committee or any subcommittee thereof may have permission to sit during the sessions of the House.

Mr. GARRETT of Tennessee. Mr. Speaker, reserving the right to object, what is the necessity for that?

Mr. GRIEST. The Post Office Committee expect to have protracted hearings in connection with various salary measures that are pending in the Congress and upon other matters.

Mr. GREEN of Iowa. If the gentleman will permit, I think the Post Office Committee has what one might almost call a general revision of salaries before it through various bills that have been introduced, and that committee expect to have very extended hearings. I do not profess to be so very well informed, but I should think it would be necessary to have very extensive hearings, and it would be impracticable for them to get through with their hearings outside of the time of the regular sessions of the House.

Mr. GARRETT of Tennessee. I hope the gentleman will withhold that request for the time being. Has the gentleman consulted with the ranking minority member of the committee?

Mr. GRIEST. I was authorized by a full meeting of the committee to make this request.

Mr. GARRETT of Tennessee. That any subcommittee could sit? That is a very unusual request the gentleman is making about subcommittees; at least, it is unusual to me. I hope the gentleman will withhold that until to-morrow.

Mr. GRIEST. I will withhold the request.

ADJOURNMENT.

Mr. GREEN of Iowa. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 4 minutes p. m.) the House, in accordance with its previous order, adjourned until Friday, February 8, 1924, at 11 o'clock a. m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

349. A communication from the President of the United States, transmitting a supplemental estimate of appropriation for the Department of the Interior, pertaining to the National Park Service, for the fiscal year 1924, amounting to $27,700 (H. Doc. No. 186); to the Committee on Appropriations and ordered to be printed.

350. A communication from the President of the United States, transmitting a supplemental estimate for the District of Columbia for the fiscal year ending June 30, 1924, amounting to $5,000 (H. Doc. No. 187); to the Committee on Appropriations and ordered to be printed.

351. A communication from the President of the United States, transmitting a supplemental estimate of appropriation for the Legislative Establishment of the United States, Public Buildings Commission, for the fiscal year ending June 30, 1924, in the sum of $10,000 (H. Doc. No. 188); to the Committee on Appropriations and ordered to be printed.

352. A communication from the President of the United States, transmitting a communication from the Secretary of War, submitting claims for damages by collisions in the sum of $5,538.92, which have been adjusted and settled by the Chief of Engineers, United States Army (H. Doc. No. 189); to the Committee on Appropriations and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII,

Mr. MORROW: Committee on the Public Lands. H. R. 498. A bill providing for a recreational area within the Crook National Forest, Ariz.; without amendment (Rept. No. 160). Referred to the Committee of the Whole House on the state of the Union.

Mr. DALLINGER: Committee on Education. H. R. 633. A bill to provide for a library information service in the Bureau of Education; without amendment (Rept. No. 161). Referred to the Committee of the Whole House on the state of the Union.

Mr. SNYDER: Committee on Indian Affairs. H. R. 2882. A bill to provide for the reservation of certain land in Utah as a school site for Ute Indians; without amendment (Rept. No. 162). Referred to the Committee of the Whole House on the state of the Union.

Mr. SNYDER: Committee on Indian Affairs. H. R. 2884. A bill providing for the reservation of certain lands in Utah for certain bands of Paiute Indians; without amendment (Rept. No. 163). Referred to the Committee of the Whole House on the state of the Union.

Mr. DALLINGER: Committee on Education. H. R. 5478. A bill to amend sections 1, 3, and 6 of an act entitled "An act to provide for the promotion of vocational rehabilitation of persons disabled in industry or otherwise and their return to civil employment"; without amendment (Rept. No. 164). Referred to the Committee of the Whole House on the state of the Union.

Mr. HOWARD of Oklahoma: Committee on Indian Affairs. H. R. 6483. A bill amending an act entitled "An act for the division of the lands and funds of the Osage Indians in Oklahoma, and for other purposes," approved June 28, 1906, and acts amendatory thereof and supplemental thereto; without amendment (Rept. No. 165). Referred to the Committee of the Whole House on the state of the Union.

Mr. MORROW: Committee on the Public Lands. S. 377. A bill limiting the creation or extension of forest reserves in New Mexico and Arizona; without amendment (Rept. No. 166). Referred to the Committee of the Whole House on the state of the Union.

Mr. SHERWOOD: Committee on Military Affairs. H. J. Res. 97. A joint resolution for the appointment of one member of the board of managers of the National Home for Disabled Volunteer Soldiers; without amendment (Rept. No. 168). Referred to the House Calendar.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII,

Mr. KNUTSON: Committee on Pensions. H. R. 2574. A bill granting a pension to Nellie Roche McAndrew; with an amendment (Rept. No. 159). Referred to the Committee of the Whole House.

Mr. EVANS of Montana: Committee on the Public Lands. H. R. 3104. A bill granting 160 acres of land to the Colorado State Normal School, of Gunnison, Colo., for the use of their Rocky Mountain biological station; with amendment (Rept. No. 167). Referred to the Committee of the Whole House.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, committees were discharged from the consideration of the following bills, which were referred as follows:

A bill (H. R. 3112) granting a pension to Zack Amis; Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

A bill (H. R. 4705) granting an increase of pension to David S. Hills; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 5447) granting a pension to Benjamin Ratliff; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 5904) granting a pension to Robert Irwin; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 6269) granting a pension to Tenny A. Littlejohn; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 6524) granting a pension to Fannie McAllister; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 6706) granting a pension to John H. Vogt; Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. SINNOTT: A bill (H. R. 6710) to authorize the Secretary of the Interior to lease certain lands; to the Committee on the Public Lands.

Also, a bill (H. R. 6711) to authorize the acceptance of certain lots of land situated in the city of Medford, Oreg., and offered to the United States for use in connection with the administration of Crater Lake National Park; to the Committee on the Public Lands.

Also, a bill (H. R. 6712) to provide lands for Navajo Indians in New Mexico; to the Committee on the Public Lands.

Also, a bill (H. R. 6713) to define trespass on coal lands of the United States and to provide a penalty therefor; to the Committee on the Public Lands.

By Mr. HADLEY: A bill (H. R. 6714) authorizing and directing the Secretary of the Interior to patent certain lands to

school district No. 58 of Clallam County, State of Washington, and for other purposes; to the Committee on the Public Lands.

By Mr. GREEN of Iowa: A bill (H. R. 6715) to reduce and equalize taxation, to provide revenue, and for other purposes; to the Committee on Ways and Means.

By Mr. MOORE of Ohio: A bill (H. R. 6716) fixing the pay of carriers in Rural Mail Delivery Service, and for other purposes; to the Committee on the Post Office and Post Roads.

By Mr. HAMMER: A bill (H. R. 6717) granting the consent of Congress to the State highway department of North Carolina to construct a bridge across the Peedee River in North Carolina between Anson and Richmond Counties; to the Committee on Interstate and Foreign Commerce.

By Mr. LAGUARDIA: A bill (H. R. 6718) providing for the disposition of canceled and redeemed bonds, Treasury certificates, and other certificates of indebtedness; to the Committee on Banking and Currency.

By Mr. HAWLEY: A bill (H. R. 6719) to give full rights under the retirement act to certain postmasters; to the Committee on the Civil Service.

By Mr. WOLFF: A bill (H. R. 6720) to amend section 5331 of the Revised Statutes of the United States; to the Committee on the Judiciary.

By Mr. KELLER: A bill (H. R. 6721) to amend the act entitled "An act to fix and regulate the salaries of teachers, school officers, and other employees of the Board of Education of the District of Columbia," approved June 20, 1906, as amended, and for other purposes; to the Committee on the District of Columbia.

By Mr. ROBSION of Kentucky: A bill (H. R. 6722) to amend the act entitled "An act to provide that the United States shall aid the States in the construction of rural post roads, and for other purposes," approved July 11, 1916, as amended and supplemented, and for other purposes; to the Committee on Roads.

By Mr. BURDICK: A bill (H. R. 6723) to provide for reimbursement of certain civilian employees at the naval torpedo station, Newport, R. I., for the value of personal effects lost, damaged, or destroyed by fire; to the Committee on Naval Affairs.

By Mr. DAVIS of Minnesota: A bill (H. R. 6724) granting the consent of Congress to construct a bridge across the Minnesota River at or near Blakely, Minn., to the counties of Sibley and Scott, Minn.; to the Committee on Interstate and Foreign Commerce.

By Mr. CLARK of Florida: A bill (H. R. 6725) granting the consent of Congress to the States of Georgia and Florida, through their respective highway departments, to construct a bridge across the St. Marys River at or near Wilds Landing, Fla.; to the Committee on Interstate and Foreign Commerce.

By Mr. TINKHAM: A bill (H. R. 6726) authorizing the preservation of certain public works in and around Boston Harbor, Mass.; to the Committee on Rivers and Harbors.

By Mr. BYRNES of South Carolina: A bill (H. R. 6727) to amend section 21 of the legislative, executive, and judicial appropriation act approved May 28, 1896; to the Committee on the Judiciary.

By Mr. WOLFF: A bill (H. R. 6728) adjusting the pay of students of officers' training camps; to the Committee on Military Affairs.

By Mr. COLTON: A bill (H. R. 6729) to amend the second proviso of section 89 of an act entitled "An act providing for the public printing and binding and distribution of public documents," approved January 12, 1895; to the Committee on Printing.

By Mr. SANDERS of New York: A bill (H. R. 6730) to provide for the purchase of a site and the erection of a Federal building at Le Roy, N. Y.; to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 6731) to provide for the purchase of a site and the erection of a Federal building at Dansville, N. Y.; to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 6732) to provide for the purchase of a site and the erection of a Federal building at Albion, N. Y.; to the Committee on Public Buildings and Grounds.

By Mr. WOLFF: Joint resolution (H. J. Res. 173) proposing an amendment to the Constitution of the United States; to the Committee on the Judiciary.

By Mr. HUDDLESTON: Joint resolution (H. J. Res. 174) proposing an amendment to the Constitution of the United States; to the Committee on Ways and Means.

By Mr. LAGUARDIA: Resolution (H. Res. 175) requesting the Secretary of the Treasury to furnish to the House of Representatives certain information regarding issuance of bonds and Treasury certificates, and for other purposes; to the Committee on Expenditures in the Treasury Department.

By Mr. McCLINTIC: Memorial of the Legislature of the State of Oklahoma, urging Congress to make a per capita payment to the Choctaw and Chickasaw Indians; to the Committee on Indian Affairs.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ARNOLD: A bill (H. R. 6733) granting a pension to Mary Vursell; to the Committee on Invalid Pensions.

By Mr. BACHARACH: A bill (H. R. 6734) granting an increase of pension to Mary E. Nichols; to the Committee on Invalid Pensions.

By Mr. BECK: A bill (H. R. 6735) granting an increase of pension to Mary J. Devlin; to the Committee on Invalid Pensions.

By Mr. BLAND: A bill (H. R. 6736) to provide for an examination and survey of Carters Creek, Lancaster County, Va., and of the channel connecting said creek with the Rappahannock River, Va.; to the Committee on Rivers and Harbors.

By Mr. BOYLAN: A bill (H. R. 6737) for the relief of James A. Hughes; to the Committee on Military Affairs.

By Mr. BUTLER: A bill (H. R. 6738) granting a pension to Joseph Kellerman; to the Committee on Pensions.

By Mr. CELLER: A bill (H. R. 6739) for the relief of Hedwig Grassman; to the Committee on Claims.

By Mr. MOREHEAD: A bill (H. R. 6740) for the relief of James E. Judge, sr.; to the Committee on Claims.

By Mr. FISH: A bill (H. R. 6741) granting an increase of pension to Annie M. Owen; to the Committee on Invalid Pensions.

By Mr. FULLER: A bill (H. R. 6742) for the relief of Michael H. Lorden; to the Committee on Claims.

By Mr. GILLETT: A bill (H. R. 6743) for the relief of Clara E. Walker; to the Committee on Claims.

Also, a bill (H. R. 6744) for the relief of Nelson S. Walker; to the Committee on Claims.

By Mr. GLATFELTER: A bill (H. R. 6745) granting an increase of pension to Robert A. Herbst; to the Committee on Pensions.

Also, a bill (H. R. 6746) granting an increase of pension to Emma C. Withers; to the Committee on Invalid Pensions.

By Mr. GOLDSBOROUGH: A bill (H. R. 6747) to carry out the provisions of the Court of Claims in the case of Martha J. Briscoe, widow of John A. Briscoe, deceased; to the Committee on War Claims.

Also, a bill (H. R. 6748) granting a pension to Delia Riggin; to the Committee on Invalid Pensions.

Also, a bill (H. R. 6749) to authorize a preliminary examination and survey of Elk River, in Maryland; to the Committee on Rivers and Harbors.

By Mr. GRIEST: A bill (H. R. 6750) granting franking privilege to Edith Bolling Wilson; to the Committee on the Post Office and Post Roads.

By Mr. HASTINGS: A bill (H. R. 6751) authorizing the Secretary of War to donate to the city of Henryetta, State of Oklahoma, two German cannons or fieldpieces; to the Committee on Military Affairs.

By Mr. HICKEY: A bill (H. R. 6752) granting a pension to Elizabeth Smithers; to the Committee on Invalid Pensions.

By Mr. HOLADAY: A bill (H. R. 6753) granting an increase of pension to Alba B. Bean; to the Committee on Pensions.

By Mr. JOHNSON of Texas: A bill (H. R. 6754) authorizing the President to reappoint and honorably discharge David J. Sawyer, second lieutenant, National Army, as of May 11, 1919; to the Committee on Military Affairs.

By Mr. KAHN: A bill (H. R. 6755) granting six months' pay to Maude Morrow Fechteler; to the Committee on Military Affairs.

By Mr. KELLER: A bill (H. R. 6756) for the relief of Mrs. Lawrence Chlebek; to the Committee on Claims.

By Mr. KELLY: A bill (H. R. 6757) for the relief of the Post Publishing Co.; to the Committee on War Claims.

Also, a bill (H. R. 6758) for the relief of Thomas A. McInerney; to the Committee on Claims.

Also, a bill (H. R. 6759) for the relief of Dr. John L. McGrath; to the Committee on Claims.

By Mr. LEHLBACH: A bill (H. R. 6760) granting an increase of pension to Isabella W. Williams; to the Committee on Invalid Pensions.

By Mr. LINEBERGER: A bill (H. R. 6761) granting a pension to Mary L. Gross; to the Committee on Invalid Pensions.

By Mr. MAGEE of Pennsylvania: A bill (H. R. 6762) for the relief of K. S. Szymanski; to the Committee on Claims.

By Mr. MAJOR of Missouri: A bill (H. R. 6763) granting a pension to Louisa K. Johnson; to the Committee on Invalid Pensions.

By Mr. MOORE of Ohio: A bill (H. R. 6764) granting a pension to Carl Gilmore; to the Committee on Invalid Pensions.

By Mr. PARKER: A bill (H. R. 6765) granting an increase of pension to Livonia Nicholas; to the Committee on Invalid Pensions.

By Mr. ROBSION of Kentucky: A bill (H. R. 6766) granting a pension to James Jones; to the Committee on Pensions.

By Mr. SITES: A bill (H. R. 6767) granting an increase of pension to Florence H. Wolf; to the Committee on Pensions.

By Mr. THOMAS of Oklahoma: A bill (H. R. 6768) granting an increase of pension to Mary Shaw; to the Committee on Invalid Pensions.

By Mr. TYDINGS: A bill (H. R. 6769) granting a pension to Mary Larson; to the Committee on Pensions.

Also, a bill (H. R. 6770) granting a pension to Emily M. Harrison; to the Committee on Invalid Pensions.

Also, a bill (H. R. 6771) granting a pension to Pius Yingling; to the Committee on Invalid Pensions.

By Mr. UPSHAW: A bill (H. R. 6772) for the relief of Gershon Bros. Co.; to the Committee on Claims.

By Mr. WILSON of Indiana: A bill (H. R. 6773) granting an increase of pension to Luella Sutton; to the Committee on Invalid Pensions.

By Mr. WOODRUFF: A bill (H. R. 6774) granting an increase of pension to Martin Guthrie; to the Committee on Invalid Pensions.

Also, a bill (H. R. 6775) for the relief of Francis Forbes; to the Committee on Military Affairs.

Also, a bill (H. R. 6776) granting a pension to Sarah Blakely; to the Committee on Invalid Pensions.

By Mr. ZIHLMAN: A bill (H. R. 6777) for the relief of Levin P. Kelly; to the Committee on Claims.

Also, a bill (H. R. 6778) for the relief of Levin P. Kelly; to the Committee on Claims.

By Mr. LEHLBACH: Joint resolution (H. J. Res. 175) authorizing the President to require the United States Sugar Equalization Board (Inc.) to adjust a transaction relating to 3,500 tons of sugar imported from the Argentine Republic; to the Committee on Agriculture.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

908. By Mr. ALDRICH: Petitions of Caserta Social Club, Vedova Regina Margherita Lodge, Sons of Italy, and Brigata Dabormida M. Club, all of Natick, R. I., protesting against the passage of the Johnson immigration bill; to the Committee on Immigration and Naturalization.

909. Also, petition of Young Women's Hebrew Association of Providence, R. I., and the General Jewish Committee of Providence, R. I., opposing further restriction of immigration; to the Committee on Immigration and Naturalization.

910. Also, petitions of Giovane Italia Club and the E. A. Manzoni Club, both of Natick, R. I., protesting against the passage of the Johnson immigration bill; also, Pawtucket (R. I.) section, Council of Jewish Women, opposing further restriction of immigration; to the Committee on Immigration and Naturalization.

911. By Mr. CULLEN: Petition of the Water Power Commission of New York, protesting against the passage of the McCormick bill or any other bill seeking to authorize and legalize the diversion of Lake Michigan waters in excess of the amount now authorized by the Federal Government, whereas such excessive diversion, by lowering the elevation of the waters of the Great Lakes is injuring navigation and commerce and is reducing the amount of power which may be developed on the Niagara River by upward of 500,000 continuous horsepower, of which upward of 200,000 continuous horsepower, depending upon the amount of such excess, is capable of being developed in New York State; to the Committee on Rivers and Harbors.

912. Also, petition of the board of directors of the National Association of Cost Accountants, favoring such revision of Federal laws as may be necessary to permit the compilation, tabulation, and exchange of trade information under such public regulation as may be necessary to safeguard the public welfare; to the Committee on Interstate and Foreign Commerce.

913. Also, petition of the Laundry Owners' National Association, urging the repeal of the tax on telegraph messages, in as much as 95 per cent of this tax falls on industry and commerce and imposes an unjust restriction on business; to the Committee on Ways and Means.

914. Also, petition of the board of directors of the East Brooklyn Savings Bank, of Brooklyn, N. Y., favoring the Mellon plan to reduce the present war taxes; to the Committee on Ways and Means.

915. By Mr. FULLER: Petition of the Chamber of Commerce of Rockford, Ill., favoring the Winslow bill (H. R. 4517) relating to the department of domestic and foreign commerce; to the Committee on Interstate and Foreign Commerce.

916. Also, petition of the Sycamore (Ill.) Chamber of Commerce and sundry citizens of Illinois, favoring the game refuge bill; to the Committee on Agriculture.

917. Also, petition of United States Blind Veterans of the World War, for adequate compensation regardless of the manner in which they came by their disabilities; to the Committee on World War Veterans' Legislation.

918. Also, petition of the American Legion at its fifth national convention, favoring the adjusted compensation bill; to the Committee on Ways and Means.

919. By Mr. KAHN: Petition of the San Francisco Chamber of Commerce and several hundred citizens of San Francisco, Calif., urging tax reduction and no additional taxes; to the Committee on Ways and Means.

920. By Mr. MAJOR of Missouri: Petition of citizens of the State of Missouri, favoring the enactment into law legislation similar to Senate bill 742 and House bill 2702; to the Committee on Naval Affairs.

921. By Mr. MEAD: Petition of the council of the city of Buffalo, N. Y., favoring the enactment of such legislation as will give the people a plentiful supply of anthracite coal; to the Committee on Interstate and Foreign Commerce.

922. By Mr. O'CONNELL of Rhode Island: Petition of the Hebrew Educational Institute of Rhode Island, opposing the passage of the Johnson immigration bill; to the Committee on Immigration and Naturalization.

923. Also, petition of the Pawtucket Section, Council of Jewish Women of the State of Rhode Island, opposing the passage of the Johnson immigration bill; to the Committee on Immigration and Naturalization.

924. Also, petition of the General Jewish Committee, of Providence, R. I., opposing the passage of the Johnson immigration bill; to the Committee on Immigration and Naturalization.

925. By Mr. O'SULLIVAN: Petitions of Corte Verdi, Foresters of America; Societa Cattolica; Society Stumese; Provincia di Avellino; Italian-American Students' Club; Italian-American Democratic Club; Loggia Italia, No. 66, O. F. D'Italia; Serione Fascista; Societa Calatina; Provincia di Foggia; Societa Frigentina; Regina Elena; Club Unico; Societa Aviglianese; Italian-American Republican Club; and Fratellaura Italiana, organizations of Waterbury, Conn., in opposition to the so-called Johnson immigration bill; to the Committee on Immigration and Naturalization.

926. By Mr. PERKINS: Petition of the Grand Council of the Grand Lodge of the State of New Jersey, Order Sons of Italy in America, with 175 affiliated lodges in this State, whose members are almost all American citizens, at its regular meeting unanimously adopted resolutions opposing section 10 (a) of the proposed Johnson immigration bill (H. R. 101), that bases the percentage of immigration on the United States census of 1890, as a discrimination against the southern races of Europe; to the Committee on Immigration and Naturalization.

927. By Mr. SMITH: Petition of citizens of Idaho County, Idaho, urging enactment of McNary-Haugen bills for relief of agriculture; to the Committee on Agriculture.

928. By Mr. SNELL: Petition of Westport Chamber of Commerce, Westport, N. Y., to build a bridge across the narrows of Lake Champlain, connecting New York State and Vermont; to the Committee on Interstate and Foreign Commerce.

929. Also, petition of rural letter carriers out of Canton, N. Y., favoring House bill 4977; to the Committee on the Post Office and Post Roads.

930. Also, petition of New York State Water Power Commission, protesting against the McCormick bill (S. 4428) or any other bill seeking to authorize and legalize the diversion from Lake Michigan by the Sanitary District of Chicago; to the Committee on Rivers and Harbors.

931. By Mr. STRONG of Pennsylvania: Petitions of rural letter carriers, Brookville and New Bethlehem, Pa., urging

favorable action on House bill 4977, to adjust the compensation of carriers in Rural Mail Delivery Service, etc.; to the Committee on the Post Office and Post Roads.

932. Also, petition of Milano Lodge, No. 1090, Sons of Italy in America, all citizens of Conifer, Pa., expressing their views in reference to the selective immigration bill; to the Committee on Immigration and Naturalization.

933. Also, memorial of E. R Brady Post, No 242, Grand Army of the Republic, Brookville, Pa., favoring an increase of pension for Civil War soldiers and their widows; to the Committee on Invalid Pensions.

934. By Mr. SWEET: Petition of New York State Water Power Commission, opposing the passage of Senate bill 4428; to the Committee on Rivers and Harbors.

935. By Mr. TAGUE: Petition of the Michael J. Perkins Post, No. 67, the American Legion, South Boston, Mass., favoring immediate enactment of a bill for adjusted compensation for World War veterans; to the Committee on Ways and Means.

936. Also, petition of Charles M. Stow, executive editor Christian Science Monitor, Boston, Mass., favoring the restoration of the amount asked by the Postmaster General for air mail in the Post Office appropriation bill; to the Committee on Appropriations.

937. Also, petition of the New Century Club, composed of the Jewish professional men of Greater Boston, condemning the Johnson immigration bill as discriminatory; to the Committee on Immigration and Naturalization.

938. Also, petition of the conference of delegates representing all of the Jewish organizations of Massachusetts, held on Sunday, January 20, 1924, at Boston, Mass., condemning the Johnson immigration bill; to the Committee on Immigration and Naturalization.

939. Also, petition of Long Island Hospital Nurses' Alumnæ Association, Boston, Mass., composing 200 professional nurses, opposing the passage of the reclassification bill; to the Committee on the Civil Service.

940. By Mr. TINKHAM: Petitions of the New Century Club, Associated Jewish Organizations of Massachusetts, and the Mazzini Club, opposing the Johnson immigration bill; to the Committee on Immigration and Naturalization.

941. Also, petition of Massachusetts Audubon Society, urging the passage of H. R. 745; to the Committee on Agriculture.

942. By Mr. WELSH: Petition of Philadelphia Board of Trade, favoring House Joint Resolution 1, to prevent the further issuance of tax-exempt securities; to the Committee on Ways and Means.